

ORIGINAL

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI, ARIZONA

2005 AUG 24 PM 4:53 ✓

CLERK

BY: B. Hamilton

THE STATE OF ARIZONA,)
)
Plaintiff,)
)
vs.)
)
STEVEN CARROLL DEMOCKER,)
)
Defendant.)

No. CR 2008-1339

BEFORE: THE HONORABLE THOMAS B. LINDBERG
JUDGE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
WEDNESDAY, DECEMBER 24, 2008
10:52 A.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SIMPSON HEARING

TESTIMONY OF DOUGLAS BROWN

ROXANNE E. TARN, CR
Certified Court Reporter
Certificate No. 50808

DECEMBER 24, 2008
10:52 A.M.

SIMPSON HEARING

APPEARANCES:

FOR THE STATE, MR. MARK AINLEY.
FOR THE DEFENDANT, MR. JOHN SEARS.

THE COURT: Record reflects Mr. Democker is present. Mr. Sears is present. Mr. Ainley is here.

Mr. Ainley, you may call your next witness.

MR. AINLEY: The State calls Detective Doug Brown to the stand.

While he's making his way up, Judge, Detective McDormett is back and feeling better. He is my case agent and he's sitting at the prosecution table.

Additionally, Detective Page was released yesterday. And I checked with Mr. Sears, and there is no objection to Detective Page sitting in the courtroom.

THE COURT: Thank you. Detective Brown has been sworn in already.

DOUGLAS BROWN,
called as a witness, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. AINLEY:

Q. Sir, would you state your name, please.

1 A. Douglas Damont Brown.

2 Q. And how are you employed, sir?

3 A. With the Yavapai County sheriff's office.

4 Q. And how long have you been in law enforcement?

5 A. Since 2008.

6 Q. What's your current assignment?

7 A. Detective with Criminal Investigations Bureau,
8 Prescott office.

9 Q. Does that include investigation of homicides?

10 A. Yes, it does.

11 Q. How long have you been a detective?

12 A. Since January of 2007.

13 Q. Sir, I'm placing what's been marked as Exhibit 1,
14 a copy of the departmental report in this matter here on the
15 table in front of you.

16 Please feel free to use that document at
17 any time to refresh your recollection, but please indicate
18 verbally that you are looking at the report.

19 A. Okay.

20 Q. So the second thing I am handing to you is a copy
21 of the Grand Jury transcript in this matter. It has already
22 been moved into evidence. It is Exhibit 2 in this matter.

23 Sir, how did you become involved in the
24 investigation of the Carol Kennedy homicide?

25 A. I was called July 2nd, sometime after 10:00 p.m.,

1 and asked to respond out to the residence on Bridle Path.

2 Q. So you were one of the first detectives on the
3 scene?

4 A. Correct.

5 Q. Subsequent to that, did you testify at the --
6 before the Yavapai County Grand Jury?

7 A. Yes, I did.

8 Q. Have you had a chance to review Exhibit 2 to
9 review your testimony?

10 A. Yes, I have.

11 Q. Based on subsequent investigation, are there any
12 changes to what you testified to at the Grand Jury that you
13 would testify to today to update or correct any information
14 that you gave to the Grand Jury?

15 A. Two changes.

16 Q. What are they?

17 A. Reference the date of -- as far as the support
18 payments from the divorce. I indicated it was July 1st. It
19 is actually June 1st.

20 And then the color of the binder,
21 reference the tax information, it's actually gray, not white.

22 Q. Anything else?

23 A. No, sir.

24 Q. You said you were one of the first responders out
25 to the scene; is that correct?

1 A. Correct.

2 Q. When you were out at the scene, did you
3 subsequently -- did you search the entire area of the Bridle
4 Trail house for a weapon or for evidence in this particular
5 case?

6 A. I was only involved in the search at the Bridle
7 Path house.

8 MR. SEARS: Can I have that again, please?

9 THE WITNESS: I was involved in the search of
10 the Bridle Path house on July 3rd.

11 BY MR. AINLEY:

12 Q. Was the guesthouse occupied by James Knapp ever
13 searched?

14 A. Yes, it was.

15 Q. Who searched it?

16 A. Myself and Detective Jaramillo.

17 Q. Was the entire house searched?

18 A. The entire house was searched, yes.

19 Q. The entire guesthouse?

20 A. Correct.

21 Q. Let me show you exhibits -- let me start with
22 Exhibit 56.

23 Do you recognize that?

24 A. Yes, I do.

25 Q. Why do you recognize it?

1 A. It's the picture going from the living quarters
2 down to the two-car garage area.

3 Q. In which structure?

4 A. In the guesthouse -- straw bale guesthouse.

5 Q. The house where Mr. Knapp was living?

6 A. That's correct.

7 Q. Does that accurately show the garage of the
8 guesthouse back on July 2nd when you searched it?

9 A. July 3rd. That be would correct.

10 Q. July 3rd. Is this picture taken before or after
11 the search?

12 A. It was photographed when we went over there to
13 conduct the search.

14 Q. Before the search was actually conducted?

15 A. Right.

16 Q. So this was the condition of the garage before
17 officers began to search through the house?

18 A. Correct.

19 MR. AINLEY: State moves for the admission of
20 56.

21 MR. SEARS: No objection.

22 THE COURT: 56 is admitted.

23 BY MR. AINLEY:

24 Q. Exhibit 57. What is that?

25 A. That's a picture of the garage -- of the

1 two-car portion. It would be facing, for the most part, the
2 west door of the overhead garage door.

3 Q. That is the garage of the guesthouse?

4 A. Correct. And when I say "west," there is two
5 garage doors -- the one to the west side, and it's on the
6 north face.

7 Q. Does it accurately show the garage on July 3,
8 2008?

9 A. Yes, it does.

10 MR. AINLEY: State moves for the admission of
11 57.

12 MR. SEARS: No objection.

13 THE COURT: 57 is admitted.

14 BY MR. AINLEY:

15 Q. Exhibit 58. What is it we are looking at here?

16 A. That is the same portion, just further -- I would
17 say like the southwest corner of that section of the garage.

18 Q. Does it accurately show the garage on July 3,
19 2008?

20 A. Yes, it does.

21 MR. AINLEY: State moves for the admission of
22 Exhibit 58.

23 MR. SEARS: No objection.

24 THE COURT: 58 is admitted.

25 MR. AINLEY: Thank you.

1 Q. Exhibit 59. What is that?

2 A. Same portion, just a little bit higher on the
3 door.

4 Q. Does it accurately show the garage of the
5 guesthouse on July 3, 2008?

6 A. Yes, it does.

7 MR. AINLEY: State moves for the admission of
8 59.

9 MR. SEARS: No objection.

10 THE COURT: 59 is admitted.

11 BY MR. AINLEY:

12 Q. Did you subsequently become aware that there were
13 things that were being moved to the Bridle Trail house for a
14 yard sale?

15 A. I know of only one thing that was moved to the
16 Bridle Path house for a yard sale.

17 Q. What is that?

18 A. A golf club.

19 Q. Could you tell from looking at the garage whether
20 this was stuff that was being collected for a garage sale, or
21 was this just a bad storage job?

22 A. It was stuff. I don't know what it was for.

23 Q. How did it compare to the rest of the house -- the
24 guesthouse?

25 A. The rest of the guesthouse was more of a living

1 quarters for Mr. Knapp, so it was an organized living
2 quarters. This was more just storage.

3 Q. Could you tell whose storage it was?

4 A. There was a lot of items that were
5 art-related, and I know Miss Kennedy did art, so I thought a
6 lot of that was hers. The rest of this stuff, I don't know
7 whose that was.

8 Q. Was anything seized from Mr. Knapp's house?

9 A. No.

10 Q. Why not?

11 A. There was no items that seemed to have any
12 evidentiary value.

13 Q. Let's go out to the bicycle tracks.

14 Did you go to the area where the bicycle
15 tracks were?

16 A. Not on July 3rd.

17 Q. When did you go out?

18 A. I have gone out several times. The first time I
19 probably went out to there was July 6, I believe.

20 Q. Were any of the bicycle tracks still there?

21 A. No.

22 Q. You were one of the officers who was responsible
23 for sending items to the D.P.S. lab and to other laboratories
24 for DNA testing; is that correct?

25 A. That's correct.

1 Q. Was any DNA recovered in the Bridle Path house?

2 A. Yes.

3 Q. What were the sources -- what were the locations
4 where DNA was found?

5 A. There are multiple locations where DNA was found.
6 As far as all the swabs that were collected for blood
7 evidence, all that contained DNA evidence.

8 Q. Was DNA evidence found on one of the light bulbs
9 in the laundry room?

10 A. Multiple DNA was found on light bulbs in the
11 laundry room.

12 Q. Let's talk about that. Who did you send -- and
13 let's break it down and take first light bulb, second light
14 bulb, and walk through.

15 First light bulb, in the laundry room,
16 how was it -- who was it sent to first for DNA analysis?

17 A. The Department of Public Safety.

18 Q. Were they able to give you any sorts of results on
19 that?

20 A. Yes, they were.

21 Q. What did they find?

22 A. Can I refer to notes on that?

23 Q. Yes.

24 A. Can I refer to my own notes?

25 Q. Yes. The copy of the summary has been provided to

1 Mr. Sears.

2 A. There is actually three light bulbs that were sent
3 to the lab.

4 Q. Did all three come from the laundry room?

5 A. Yes.

6 Q. Let's take the first light bulb.

7 A. No. 800. On a lab report dated July 31st, there
8 was cellular material detected on that light bulb.

9 On a report dated August 1st, human DNA
10 was isolated from that light bulb. And they advised that
11 there were inconclusive or no results obtained from that
12 light bulb.

13 Q. How about the second light bulb?

14 A. There is more on the first light bulb.

15 Q. Okay.

16 A. We then -- it's two different labs, though. Do
17 you want that, also?

18 Q. Yes, please.

19 A. We then sent -- because the results were
20 inconclusive, we sent it to a different lab that had a
21 different way of testing.

22 On October 3rd, profile summary, it
23 identified the presence of the male chromosome and indicated
24 a mixture of profiles from at least three contributors.

25 Q. DNA from three different people for the light

1 bulb?

2 A. Correct.

3 Q. Were they able to isolate out -- give you any one
4 specific person?

5 A. No, they were not able to do that.

6 And the results for the August -- or
7 October 6th report, mixture of DNA profiles, at least one,
8 which genetically types as male, was obtained from this item.
9 No further analysis conducted.

10 Q. How about the second light bulb removed from the
11 laundry room?

12 A. That's 801-A.

13 Q. Okay. Where was it sent first?

14 A. Department of Public Safety.

15 Q. And what were their results?

16 A. They also detected cellular material from the 7/31
17 report. And human DNA was isolated from the August 1st
18 report with inconclusive or no results.

19 Q. What was done with that light bulb?

20 A. It was also sent to the lab, which is Sorenson.

21 On the October 3rd profile summary, it
22 identified the presence of the male chromosome and indicated
23 a mixture of profiles from at least four contributors.

24 On the October 6th report, they
25 identified a mixture of DNA profiles. At least one was

1 genetic typed as male, was obtained from this item, and no
2 further analysis was conducted.

3 And also, I didn't have this reference,
4 800, or the first light bulb. I apologize. On December 8,
5 there was a subsequent report that indicated the same
6 information.

7 Q. Okay. How about the third light bulb removed from
8 the laundry room?

9 A. That was first sent to the Department of Public
10 Safety.

11 THE COURT: What is the number, first?

12 THE WITNESS: It's No. 803.

13 The July 31st detected cellular material.
14 And then a subsequent August 1st report, no human DNA was
15 isolated from that light bulb, and it was not sent on.

16 BY MR. AINLEY:

17 Q. Give us another location where DNA was found in
18 the residence.

19 A. The cordless phone, which is Item No. 507.

20 Q. Where was the cordless phone sent first for DNA
21 analysis?

22 A. First, the Department of Public Safety. On the
23 July 31st report, it did detect cellular material.

24 On the August 1st report, human DNA was
25 isolated from a swab on that phone. The DNA profile was a

1 mixture of two individuals. The major component is
2 consistent with the DNA profile of Virginia Kennedy, and the
3 results from the minor component are inconclusive.

4 Also, from the Department of Public
5 Safety, August 6th. This was after the submission of James
6 Knapp's DNA. The DNA profile from Item No. 507-A is a
7 mixture of two individuals. The major component is
8 consistent with the DNA profile of Virginia Kennedy. Results
9 from the minor component are inconclusive. The DNA profile
10 from James Knapp is excluded as a contributor to the mixture.

11 On that report it asked -- it said --
12 indicated further information may be obtained by a Y-STR
13 analysis. So we asked that the Department of Public Safety
14 send that in, and the report that followed that was
15 September 11th. Human male DNA was isolated from Item 507-A.
16 Inconclusive or no results were obtained from that item. We
17 then sent that item to Sorenson labs. They have an
18 October 24th profile summary. They did not -- that lab did
19 not identify the presence of the male chromosome, and they
20 indicated a mixture of profiles from at least three
21 contributors.

22 In a report dated October 27th -- to them
23 it was Item No. 7, for us 507 -- a mixture of DNA profiles
24 that genetically types as female was obtained from this item.
25 The major DNA profile obtained from this mixture is

1 attributable to an Unknown Female No. 1. Analysis of the
2 remaining DNA profiles in this mixture was inconclusive.

3 I received a copy of the D.P.S. profile
4 summaries on November 14th. They did not indicate the
5 presence of the male chromosome, and the mixture displays the
6 presence of two contributors from their analysis.

7 On the December 9th report from Sorenson
8 labs, No. 507 is a mixture of DNA profiles that genetically
9 types as female was obtained from this item. The major DNA
10 profile obtained from this mixture is attributable to victim
11 V. Kennedy. Analysis of the remaining DNA profiles in this
12 mixture was inconclusive.

13 Q. Are we still talking about the telephone?

14 A. Yes. That's it for the telephone.

15 Q. Okay. How about the door knob to the office, the
16 exterior door?

17 A. That's No. 805, and that's a swab from that door
18 handle. First sent to the Department of Public Safety. On
19 an August 1st report, human DNA was isolated from this item.
20 The DNA profile from Item No. 805 is a mixture of two
21 individuals. The major component of the mixture matches the
22 DNA profile from Virginia Kennedy at all 14 loci. Results
23 from the minor component are inconclusive. The DNA profile
24 from Steven Democker is excluded as a contributor to this
25 mixture.

1 On the August 6th report, and this is
2 after the submission of Mr. Knapp's DNA, it indicates the
3 same thing. I can read it. The DNA profile from Item 805 is
4 a mixture of two individuals. The major component in the
5 mixture matches the DNA profile for Virginia Kennedy at all
6 14 loci. Results from the minor component are inconclusive.
7 The DNA profile from Steven Democker is excluded as
8 contributing to the mixture.

9 They also indicated that further testing
10 may produce some results from the Y-STR analysis, so we sent
11 that in. The results from that -- that's September 8. The
12 DNA profile from Item No. 805 is a mixture of two
13 individuals. The major component in the mixtures matches the
14 DNA profile from Virginia Kennedy at all 14 loci. Results
15 from the minor component are inconclusive.

16 Since they were inconclusive, we asked
17 Sorenson labs to take a look at it.

18 Actually, I need to go back one step.
19 September 11, that is from the Y-STR, and it adds, in the
20 addition -- I will read that directly. Human male DNA was
21 isolated from No. 805. A partial male DNA profile was
22 obtained from Item No. 805. It is inconclusive as to whether
23 Steven Democker can or cannot be excluded as a possible
24 contributor. So that's after the Y-STR.

25 Q. This is from the door knob, still?

1 A. Correct. And then we sent it to the Sorenson
2 labs. They indicated as Item No. 8. They did not identify
3 the presence of the male chromosome and indicates a mixture
4 of profiles from at least two contributors.

5 Their October 27 report indicates a
6 mixture of DNA profiles that genetically types as female was
7 obtained from this item. The major profile obtained from
8 this mixture was attributed to an Unknown Female No. 1.
9 Analysis of the remaining DNA profile also is inconclusive.

10 On November 14th, when I received the
11 profile summaries from D.P.S., it indicates the presence of
12 the male chromosome. November 14th, also in that same
13 profile, the mixture displays the presence of two
14 contributors.

15 On a December 9 Sorenson report, a
16 mixture of DNA profiles that genetically types as female was
17 obtained from this item. Analysis for the presence of the
18 donor of V. Kennedy was inconclusive. The donor of
19 S. Democker and James Knapp were excluded as a source of the
20 DNA obtained from this item. Not on any reports checked --
21 it's going to be coming in, reference the door handles --
22 they have also been able to exclude the unidentified male DNA
23 from Miss Kennedy's left fingernails.

24 MR. SEARS: I'm sorry. Could I hear that
25 again, your Honor?

1 THE COURT: Repeat that, please.

2 THE WITNESS: Sure. It was supplied on
3 December 9. December 19 I talked with the lab, and they are
4 also able to exclude the unidentified male DNA, which was
5 underneath her left fingernails.

6 MR. SEARS: Excluded from whom?

7 THE WITNESS: Exclude from that sample from
8 805.

9 MR. SEARS: I see. Okay. Thank you.

10 BY MR. AINLEY:

11 Q. Does that conclude all of the information
12 concerning the door knob?

13 A. Yes.

14 Q. Let's go to Miss Democker's fingernails.

15 A. Item 603.

16 THE COURT: What is the number, again?

17 THE WITNESS: 603.

18 An August 1st Department of Public Safety
19 report, human DNA was isolated from No. 603. The DNA profile
20 from Item No. 603 is a mixture of two individuals. The major
21 component matches the DNA profile of Virginia Kennedy at all
22 14 loci. The minor component is from an unidentified male
23 source. They included a CODIS search of that DNA, and no
24 results came back.

25 On August 6th, after Mr. Knapp's DNA was

1 submitted, the same exact information was supplied.

2 A September 8th report, the same
3 information was supplied, and that was after the submission
4 of additional samples that we sent in.

5 Q. Okay.

6 A. From the September 11th report, that is after the
7 Y-STR analysis, human male DNA was isolated from Item 603.
8 The male DNA profile from Item No. 603 is a mixture of at
9 least two individuals. The major component of this profile
10 is from an unidentified male source. It is inconclusive as
11 to whether Steven Democker can or cannot be excluded as a
12 possible contributor to this profile.

13 And on a November 14 D.P.S. fax
14 detailing the profile summaries that had different dates,
15 Item No. 603 is a mixture of two profiles, victim being
16 60 percent and unknown being 40 percent, with a sample from
17 victim Kennedy and the remaining profile is identified as
18 being a male with a complete profile displayed. That is all
19 for 603.

20 Q. Okay.

21 A. And then the only other thing is referenced, the
22 barbed-wire fence on the property. That is Items No. 900 and
23 also 901, which is -- 900 is the swab of the fence, 901 is
24 actually the fence itself. For the most part they are
25 indicated the same way.

1 A July 31st D.P.S. report indicated no
2 blood was detected on the swab, but there was chemical
3 testing that indicated the presence of blood on the fence
4 itself.

5 On the August 1st report, no human DNA
6 was isolated from the swab, but human DNA was isolated from
7 the fence. Inconclusive or no results were obtained from
8 that item. We sent that to the lab. On October 3rd --

9 Q. To the D.P.S. lab?

10 A. Sorenson lab.

11 On October 3rd, Sorenson profile summary
12 Item No. 5 -- which is actually Item No. 901 -- was
13 inconclusive when testing for the male and female
14 chromosomes. Three possible contributors at one marker, a
15 single identified allele at two markers, and inconclusive
16 results at 6 markers.

17 An August 6th report from Sorenson labs,
18 Item No. 901 is a mixture of DNA profiles obtained -- there
19 was a mixture of DNA profiles obtained from this item. No
20 further analysis was conducted.

21 And on a November 14th D.P.S. profile
22 summary, it indicated that -- both Items No. 900 and 901-A
23 indicated no results for the entire profile screen. That's
24 all.

25 Q. So if I understand that information correctly, no

1 DNA profiles were collected -- no identifiable DNA profiles
2 were collected other than the DNA of Ms. Kennedy?

3 A. No. Ms. Kennedy and the DNA that's underneath the
4 fingernails. All the rest is inconclusive results.

5 Q. Okay. Now, changing directions, again.

6 This is Exhibit 64. It was moved into
7 evidence yesterday. Yes, it was.

8 Do you recognize -- I believe this is
9 Williamson Valley, Love Lane, Rainmaker, Boone Court, and a
10 trail system through the forest service.

11 A. Is that a blowup of the map -- foldout map system?

12 Q. Yes. Forest service map.

13 A. Okay.

14 Q. Are you oriented on it now?

15 A. Yes, sir.

16 Q. All right. Did you interview Mr. Democker about
17 where he had been during the time of the homicide?

18 A. Yes, I did.

19 Q. Did he give you a route that he had taken or
20 supposedly taken with his bicycle?

21 A. Yes, he did.

22 Q. What did you do once he gave you that route?

23 A. I -- later on in the morning -- later that
24 morning, I drove out to Love Lane and attempted to locate the
25 trailhead.

1 Q. Can you tell us approximately where you started,
2 where you parked?

3 A. Turning off Williamson Valley Road, we went down
4 the next street.

5 Q. This one?

6 A. No. Next street.

7 Q. Love Lane.

8 A. Went down there, there, and back up.

9 Q. Okay.

10 A. If you go down there, there is a street that
11 appears to dead-end. There is three houses on a rock road.

12 Q. These three dots?

13 A. No. Can I point to it?

14 Q. Sure. Go ahead.

15 A. There is actually a road right here. End of Boone
16 Court, there is a driveway -- a rock driveway that goes
17 around, and there's a road that continues on here. I drove
18 down this road. There is a house on the west side, a house
19 on the south side, and a house on the east side, and the rock
20 drive right here. I did not find the trail there. Drove up
21 to the end of Love Lane where the road goes to dirt, and I
22 could not find a trail there, also.

23 Q. Did you contact the homeowners of those three
24 houses to try to see if they had seen anything?

25 A. I did not that night or that morning.

1 Q. Any reason why not?

2 A. It was 4:00 in the morning.

3 Q. 4:00 in the morning? Okay.

4 Did you ever subsequently come back to
5 that location to try to find that trail?

6 A. First time I went back to that location was
7 July 13th, and then I went back there several times after.

8 Q. Did you ever attempt to walk the trail to
9 determine Mr. Democker's -- the route that he gave you?

10 A. Yes, I did. On July 13th.

11 Q. How long did it take you to walk the route that he
12 told you?

13 A. I don't have an exact ending point for his route.
14 The route I took, took an hour and 26 minutes, one way.

15 Q. One way. And an hour and 26 minutes back?

16 A. And walking back.

17 Q. An hour and 26 minutes to walk the route one way
18 from where he said he parked his vehicle to --

19 A. No. One way just from the trailhead at Love Lane
20 to an ending point, which is actually at the road called
21 Dineh.

22 Q. Can you point that out on the map for us.

23 A. The way I found this -- I started Williamson
24 Valley trailhead, hiked down to Trail 309 and came out, and
25 then I didn't see any trail started.

1 I then turned around and walked back to
2 Trail 309, to Trail 347, continued on 347 all the way to the
3 trailhead at Katahn and Dineh. That took an hour and 26
4 minutes.

5 Q. And you were walking it, you weren't on a bicycle?

6 A. Correct.

7 MR. AINLEY: Thank you, sir. I don't think I
8 have any other questions for you at this time.

9 THE COURT: Mr. Sears.

10 MR. SEARS: Thank you.

11 CROSS-EXAMINATION

12 BY MR. SEARS:

13 Q. Detective Brown, let's talk a little bit about
14 your background and experience.

15 Did I hear you say that you have been a
16 detective -- it will be two years next month?

17 A. Correct. January.

18 Q. Can you give me an idea about how many other
19 homicide investigations you have been involved in other than
20 this case?

21 A. I assisted with -- prior to that, I have assisted
22 with one case back in 2003. I assisted with two cases prior
23 to this, and then one after.

24 Q. And initially in this case, you were designated as
25 the case agent; is that right?

1 A. That's correct.

2 Q. And then sometime later you were replaced by
3 Detective McDormett; is that right?

4 A. Correct.

5 Q. When did that take place?

6 A. I don't know the exact date. I would say sometime
7 in mid-September.

8 Q. But have you continued to work on this case since
9 then?

10 A. Yes, sir.

11 Q. After you were replaced as case agent, what
12 responsibilities have you had in connection with this
13 investigation, up to and including today?

14 A. Continued to do follow-up investigation, and
15 continued to kind of go over the information with
16 Mr. McDormett.

17 Q. Let's talk first, if we could, about the DNA
18 evidence.

19 The testimony that you have given here
20 today focused on DNA analysis of four items, and I was
21 provided yesterday with what you described was a cheat sheet
22 that you prepared for this hearing. It says, "The following
23 is a summary of the lab reports for Mr. Sears' key items."

24 So these are items that were actually
25 part of a motion that we filed on behalf of Mr. Democker --

1 A. That's correct.

2 Q. -- asking for a Grand Jury remand. And so this is
3 work that you have done in preparation for the State's
4 response to that motion?

5 A. Correct.

6 Q. So the key items are the ones that we identified?

7 A. Those are the way you ordered the key items.

8 Q. Let's talk about the significance, if we could, of
9 these four -- these four particular items, just generally.

10 The phone that we are talking about is
11 the phone that you and the prosecution believe Miss Kennedy
12 was talking on with her mother at the time she was attacked;
13 is that right?

14 A. That's correct.

15 Q. And this is a cordless phone that was found near
16 the body in the back office of the house on Bridle Path; is
17 that right?

18 A. That's correct.

19 Q. Did you find that phone -- you, personally?

20 A. No. No, sir.

21 Q. Do you know where the base unit for that phone was
22 located inside the house?

23 A. Yes, I do.

24 Q. Where was it?

25 A. In that same room on the windowsill, I guess,

1 which is the window on the east side of the house.

2 Q. Do you know the condition of the phone when it was
3 seized as to whether it was on or off?

4 A. It was on the floor. There was nothing in the
5 little screen. So I would say off.

6 Q. Obviously, since you were involved in directing
7 the investigation, did anyone from the Yavapai County
8 sheriff's office, to your knowledge, turn that phone off?

9 A. No.

10 Q. And do you know of your own knowledge or through
11 something you have been told whether the phone was actually
12 turned on or off when it was found by law enforcement the
13 night of July 2nd?

14 A. Do I know if it was turned on or off by one of
15 our --

16 Q. No. What condition was it in right when it was
17 found by the police?

18 A. It was on the floor with nothing on the screen, so
19 a cordless phone would be off.

20 Q. Are you certain of that?

21 A. Yes.

22 Q. And do you know how -- does the phone turn itself
23 off, or is there a button that has to be pushed to turn that
24 phone off?

25 A. There is different ways the phone can turn off.

1 Q. Do you know how the phone was turned off that
2 night?

3 A. No, I do not.

4 Q. Was it ever turned back on by the police?

5 A. I attempted to turn it back on and see if there
6 was any battery left later on, and there was no battery left,
7 so I couldn't turn it on.

8 Q. When did you do that?

9 A. I don't know the exact date.

10 Q. So if we could talk a little bit about the DNA
11 work that was done regarding this phone, which was Evidence
12 Item 507.

13 One of the things that was done was to
14 look for fingerprint evidence on that phone; is that correct?

15 A. That's correct.

16 Q. And you had, by the time that work was done --
17 several weeks after this -- you had fingerprint exemplars
18 from my client, Mr. Democker; is that right?

19 A. That's correct.

20 Q. But apparently the lab couldn't develop any ridge
21 detail at all on that telephone; is that right?

22 A. That's correct.

23 Q. And then shortly after that, within a week, the
24 D.P.S. lab reports that they found some cellular material.

25 Do you know what the material was? Was

1 it blood?

2 A. I don't know that.

3 Q. Have you ever asked?

4 A. They were just able to say "cellular material."

5 Q. And then there was a swab -- there's two items.

6 There is 507 and 507-A; is that right?

7 A. That's correct.

8 Q. Who, if you know, swabbed the phone and logged
9 that in as 507-A?

10 A. I believe the Department of Public Safety did.

11 Q. So they had the phone, and somebody in the lab --
12 days after the event, they came and took a swab. It wasn't
13 an evidence tech from the sheriff's office the night it was
14 seized. Is that what you're saying?

15 A. That's correct.

16 Q. So they have those two items: the swab and the
17 phone itself. And the swab -- the first report is that the
18 swab is a mixture of two individuals. The major is
19 Miss Kennedy, and inconclusive results from the minor
20 component.

21 And a few days later, you get another
22 report, and apparently you must have submitted a DNA profile
23 for Mr. Knapp to generate that second report; is that what
24 happened?

25 A. That's correct.

1 Q. And so he's excluded; is that right?

2 A. That's correct.

3 Q. But of course, the D.P.S., they had the DNA
4 profile for Mr. Democker before they started to work on this;
5 correct?

6 A. Correct.

7 Q. Now, a month later, roughly, in September, they
8 get a profile -- the same -- basically the same result, even
9 after additional samples. And the additional samples are
10 exclusionary samples. They are all the people that were
11 present on the scene -- law enforcement, lab techs, medical
12 examiner personnel -- all those people were eventually
13 swabbed, and those swabs were sent in; right?

14 A. Correct. Male.

15 Q. So that's the additional samples you are talking
16 about?

17 A. Correct. And her boyfriend, and a friend -- a
18 male friend that had been to the house, Jacob Jenesak.

19 Q. Sharlot's boyfriend; right?

20 A. Correct. And there may be some more, but that is
21 the ones I am recalling.

22 Q. Okay. So there are no matches to any of those
23 people. You still have a minor profile on the swab that's
24 inconclusive.

25 A. The match thing, they can't exclude someone.

1 Inconclusive results don't always say match or not.

2 Q. You still don't have any connection between any of
3 the people who now whose samples have been submitted -- this
4 much larger group of people -- by September, they still can't
5 identify the minor component on the swab; correct?

6 A. It's inconclusive. And they can exclude when they
7 are given the opportunity to.

8 Q. And they excluded Knapp; right?

9 A. Correct.

10 Q. And then it is sent out eventually to Sorenson in
11 Salt Lake City, and they look at 507. They don't have the
12 swab from the DNA, apparently; is that right?

13 A. No. They actually got a -- it's a -- if I can
14 look at the lab report.

15 Q. Please.

16 A. Thank you. Those are not in there.

17 Do you know where the lab submission
18 reports are? Do we have lab submission reports?

19 MR. AINLEY: I don't think that is one of our
20 marked exhibits.

21 BY MR. SEARS:

22 Q. We have got them, if you want to take time.

23 A. An organic extract, I believe. I don't know what
24 that means. That's what the lab sent -- one lab sent the
25 other lab. So an organic extract of whatever they did was

1 sent.

2 Q. They didn't have the object. Sorenson didn't have
3 the phone?

4 A. No.

5 Q. The phone was at D.P.S.; correct?

6 A. Or by that time had been returned to us.

7 Q. Okay. Now, when Sorenson starts looking at this
8 and writing reports, towards the end of October, they are
9 doing different testing. And the first report on 10/24,
10 there is three contributors, and they don't find a male
11 chromosome.

12 That is the first report, correct, on the
13 phone?

14 A. Correct. From Sorenson.

15 Q. Then there is another report three days later.

16 Do you know why there is a report three
17 days later from them? Were they asked to do something after
18 the first report results came in.

19 A. I don't know if you're -- there are two different
20 things. If you are looking at October 24th and October 27th,
21 one is a profile summary and one is a report.

22 Q. Different dates?

23 A. Correct.

24 Q. The report -- the same idea -- the major is an
25 unknown female, No. 1.

1 Did Sorenson have a profile for
2 Ms. Kennedy?

3 A. Yes, they did.

4 Q. Okay.

5 A. They didn't -- that's why some of the reports are
6 the same information. At the time, they didn't exclude
7 certain people that they had, so that is why the --

8 Q. Back on August 1, D.P.S. looks at the swab that
9 they take, and they say it's two individuals. The major
10 contributor is Ms. Kennedy, and they have an inconclusive
11 report.

12 And then two-and-a-half months later,
13 Sorenson is looking, presumably, at the same genetic
14 material, and they can't see a profile for Ms. Kennedy?

15 A. It's two different labs, two different analyses.
16 You can't compare one to the other. It's apples and oranges
17 on that.

18 Q. But that's true, isn't it?

19 A. A. What's true?

20 Q. The DNA analysis done by D.P.S. produces a result
21 that identifies Ms. Kennedy as a major contributor; the
22 Sorenson lab, until December, doesn't know who the -- the
23 female is. But on December 9th, they say, oh, it's
24 Ms. Kennedy; is that right?

25 A. The December 9th report was requested because they

1 didn't exclude people when they had the opportunity. It
2 didn't have exclusions.

3 Q. The net result, I see, regarding DNA analysis on
4 the phone -- one two, three, four, five, six, seven, eight,
5 nine entries on your cheat-sheet here -- and in all of those
6 nine entries, what I do not see is any reference to a test
7 result or a report that indicates Mr. Democker is identified
8 as being a contributor to any of the cellular material on
9 that phone or the swab taken from that phone; isn't that
10 right?

11 A. Inconclusive results, again, Mr. Sears.

12 Q. Could you answer my question.

13 A. Correct. Inconclusive.

14 Q. My question is, Mr. Democker --

15 THE COURT: He said "Correct."

16 THE WITNESS: No, I did not say "correct." It
17 is inconclusive results on those samples.

18 MR. SEARS: And an inconclusive result is
19 not --

20 THE COURT: I guess --

21 MR. SEARS: I'm sorry, your Honor.

22 Let me see if I can ask it more clearly.

23 THE COURT: Please.

24 BY MR. SEARS:

25 Q. My question to you, Detective, is do you have a

1 report from any lab -- from Sorenson or D.P.S. -- with
2 respect to DNA analysis of any type on cellular material
3 detected on the phone that Ms. Kennedy was talking on that
4 identifies my client, Steven Democker, as a contributor to
5 that material?

6 A. Again, Mr. Sears, if they can't exclude, they
7 can't say that it's his or not. That's the thing with the
8 lab.

9 Q. I guess we could agree to disagree on whether that
10 identifies my client or not. I just don't see his name, sir,
11 on your cheat-sheet.

12 A. Correct. When exclusions can be made, they are
13 made.

14 Q. Thank you. Now, let's talk about the -- jump to
15 the door handle, No. 805. Let's talk a little bit, first,
16 about the significance. As I understand it, that door
17 handle -- this is a door handle on what previously has been
18 identified to me as being the north side of the residence.
19 Is that fair to say?

20 A. That's correct.

21 Q. This is a door out of an area near the living room
22 and kitchen. It is not the door out of the office where the
23 body was found; correct?

24 A. It is in the hallway in the area, in that --

25 Q. It's a door -- when you go out of this door, you

1 go outside. And if you take a few steps, you can go down and
2 get into the garage that is associated with the main house;
3 correct?

4 A. That's correct, sir.

5 Q. And when was the -- when did police first start
6 looking at that door handle, No. 805, as a possible source of
7 evidence?

8 A. On July 6th.

9 Q. Okay. Now, the search began and the evidence
10 collection began the night of July 2 and continued into the
11 day, most of the day on July 3; is that right?

12 A. That's correct.

13 Q. When did the police clear that scene for the first
14 time?

15 A. July 3rd, sometime after 5:00 p.m. I don't know
16 the exact time.

17 Q. And what was the condition of the house? Was it
18 locked up and secured by the police when you left?

19 A. Yes. I believe it was locked up and secured.

20 Q. Mr. Knapp came back onto the property after
21 July 3, didn't he?

22 A. Correct.

23 Q. He spent the night of July 2nd, by his account, in
24 a hotel, but he spent the night of July 3 back in the
25 guesthouse, didn't he?

1 A. Correct.

2 Q. And he was there July 4, July 5th, and July 6th
3 presumably; isn't that right?

4 A. Correct.

5 Q. And in fact, you know now from your investigation
6 that Mr. Knapp was in and out of the main house a number of
7 times between July 4th and July 6th; is that right?

8 A. Correct.

9 Q. One of the times he told you that he took a
10 blanket into the room where the body was found and placed it
11 over some of the blood stains because he was concerned that
12 maybe the children would see it; is that right?

13 A. That's correct.

14 Q. And he has been questioned a number of times about
15 what else he did, what else he moved, what else he changed
16 inside the house; is that right?

17 A. Correct.

18 Q. Who else was in the house between the time you
19 left it -- when I say "you," I mean the police
20 collectively -- the night of July 3rd and the time you came
21 back on July 6th?

22 A. Jan Drake, which is a neighbor -- Jodie Drake.

23 Q. Jodie Drake lives next door; right?

24 A. Correct.

25 Q. And she came in to do what?

1 A. To get some dog food for one of the dogs.

2 Q. And how did she get into the house?

3 A. With James Knapp. She went in with James Knapp.

4 Q. And how did Mr. Knapp get in? Did he have keys?

5 A. He's advised me that he doesn't have keys.

6 Q. I'm sorry. I thought you said you locked that
7 house.

8 A. We did.

9 Q. Mr. Knapp got into the house. You know that for a
10 fact; correct?

11 A. Correct.

12 Q. You saw the blanket that he left there?

13 A. Correct.

14 Q. But he's telling you he didn't have a key to the
15 house.

16 A. That's what he said.

17 Q. Was there any sign that he broke into the house?
18 Were the windows broken or the doors burst open?

19 A. No signs.

20 Q. Mr. Knapp tell you how he got in the house without
21 a key?

22 A. He said that the door between the north door and
23 the garage that he referenced was unlocked.

24 Q. Where 805 was the door handle?

25 A. Correct.

1 Q. Why did you come back on the 6th of July?

2 A. To -- after I spoke with Miss Ruth Kennedy on the
3 4th, she indicated some things that I was not aware of --
4 reference, where she thought her daughter was when she was on
5 the phone, which was in the kitchen.

6 And so we wanted to go back and look at the
7 kitchen a little bit more, and then also to recover an old
8 computer that was in the garage.

9 Q. A crashed computer?

10 A. That was the term we were given is "crashed."

11 Q. Now, Ms. Kennedy lives in Tennessee; right?

12 A. Correct.

13 Q. And what she told -- when I say "you," if it is
14 not you, I am talking about law enforcement in general. I
15 don't expect that you had every contact and made every phone
16 call.

17 But she told the police that her
18 impression was that her daughter was talking to her on the
19 phone while she was in the kitchen making a salad for
20 herself, and the reason for that was that Ms. Kennedy said
21 she thought she heard water running; correct?

22 A. That's correct.

23 Q. And that she thought she remembered something that
24 her daughter had said about "I'm making a salad"; is that
25 right?

1 A. Earlier in the conversation they were talking
2 about salads, yes.

3 Q. Now, when you were there on the second and third,
4 did you see any indication in the kitchen that somebody had
5 been making a salad? Were there things out? Knives?
6 Produce? Anything that you would see associated with making
7 a salad?

8 A. No. There was a pre-packaged -- from the plastic
9 wrapped -- plastic, hard-covered salads.

10 Q. Where was that?

11 A. In the counter -- in the sink area where you wash
12 dishes.

13 Q. A bag of lettuce or something like that?

14 A. No, it's a hard plastic --

15 Q. A bowl?

16 A. -- bowl or --

17 Q. Was it a Tupperware-type bowl?

18 A. You purchase from the store.

19 Q. I see. Okay. Okay. And was it open?

20 A. Yes.

21 Q. And was that photographed?

22 A. Yes.

23 Q. Now, you saw that that first night; is that right?

24 A. I didn't know the relevance of it but, yeah, I saw
25 it.

1 Q. Okay. You saw it.

2 It wasn't taken as evidence because no
3 one knew what that meant; right?

4 A. Correct.

5 Q. Okay. Now, did Ms. Kennedy tell you that she
6 thought that something must have happened to her daughter in
7 the area of the kitchen because of what she had heard, that
8 she heard her talking about a salad, that she heard water
9 running? Was that her concern?

10 A. She said that she thought her daughter was in the
11 kitchen. She didn't -- it wasn't -- and I've talked to her
12 several times. She doesn't know the relationship of time to
13 that, but she was in the kitchen and heard the water running.

14 Q. Now, by this time Mr. Knapp had been interviewed
15 about not only his whereabouts, but also about his
16 observations and things he thought might be connected to this
17 case; is that right?

18 A. Correct.

19 Q. And Mr. Knapp had given you -- the police -- his
20 theory of what happened; is that right?

21 A. That's correct.

22 Q. And he had this pretty well-developed theory that
23 Ms. Kennedy was at the sink and saw my client come not from
24 the empty land in the back, but from the street towards the
25 house; right?

1 A. That was his theory; correct.

2 Q. And that they had some sort of a confrontation in
3 the kitchen area, and the struggle continued, and it wound up
4 down the hall and into the office where she was killed;
5 correct?

6 A. That is his theory; correct.

7 Q. And Mr. Knapp's theory was that there wasn't a
8 weapon involved. It was a physical confrontation, and that
9 he didn't have -- his theory didn't include a golf club or
10 any other weapon. Isn't that true?

11 A. On the day of the 6th, that's correct.

12 Q. Now, so one of the other reasons you wanted to
13 come back on the 6th is to see if you could find any evidence
14 that would corroborate either what Mr. Knapp was telling you
15 about his idea of the struggle in the kitchen-dining room
16 area and what Miss Kennedy was telling you; right?

17 A. No. I didn't speak to Mr. Knapp about his theory
18 until the 6th, so no.

19 Q. So, the first night that he was interviewed, he
20 didn't advance his theory?

21 A. He didn't have a theory the first night. He
22 didn't see in that room.

23 Q. Okay. So you come back on the 6th, and Mr. Knapp
24 has been now in and out somewhat of the house, and Jodie
25 Drake has come in to feed the dogs during this period of

1 time.

2 Anybody else in the house that you know
3 of?

4 A. Not that I know of.

5 Q. When you got to the house, was it locked up or
6 unlocked?

7 A. When I got to the house when?

8 Q. On July 6th.

9 A. The door between going to the kitchen and dining
10 room was unlocked. I made contact with Mr. Knapp, and we
11 walked through. So it was already unlocked.

12 Q. Is that when you asked Mr. Knapp if he had keys?

13 A. Keys to what?

14 Q. That door.

15 A. No. We let him know we were there, and we went
16 and did a search at that time and went through the house
17 still more at that time.

18 Q. Now, my recollection is, though, that sometime on
19 the night of July 2nd or early on July 3rd, Mr. Knapp was
20 actually on the scene and brought into the house. He shows
21 up on the entry log. Were you aware of that?

22 A. Yes.

23 Q. And he was brought in for a period of time to look
24 through that house?

25 A. No.

1 Q. What was he -- what was he --

2 A. He was brought into the entry log to go to his
3 quarters, the guesthouse, to get some medications. He was
4 escorted by a deputy and walked back out.

5 Q. He didn't go into the main house that night?

6 A. No, sir.

7 Q. Was Mr. Knapp told not to go in the main house?

8 A. Mr. Knapp was with a deputy the whole time. He
9 didn't go towards the main house.

10 Q. I'm sorry. I'm not making myself clear.

11 Was Mr. Knapp told after you all left on
12 July 3rd to stay out of the main house?

13 A. No.

14 Q. Was there any effort made by law enforcement to
15 secure that house, whether it was police tape or signs or
16 anything?

17 A. We cleared the house on July 3rd at approximately
18 5:00 p.m. and then no. It was -- it was --

19 Q. You thought you were done?

20 A. Correct.

21 Q. Now, on July 6, you come out, and now you are
22 focusing on evidence collection in the front part of the
23 house -- the kitchen area. And it is sort of an open
24 floorplan. There's a dining-room area with a sunken living
25 room and the kitchen area, all sort of at one end of the

1 house; correct?

2 A. On July 6, we went back to the house just to go
3 through the house, again. We weren't expecting collection or
4 anything, except the crashed computer --

5 Q. And that's the first time -- I'm sorry?

6 A. Except for the crashed computer we were looking
7 for.

8 Q. That is the first time that the police were
9 focusing on what might be blood evidence on this door handle;
10 correct?

11 A. That's when we found the blood evidence on the
12 door handle.

13 Q. Right. That was collected on the 6th; is that
14 right?

15 A. That's correct.

16 Q. Nearly three days after you cleared the scene?

17 A. Three days after.

18 Q. Now, let's look, if we could --

19 Your Honor, did you want to continue on?
20 I have a good deal more.

21 THE COURT: I feel in a strange position when
22 we started the hearing so late, but we haven't gone very
23 long. But we may as well, so we make sure everybody is able
24 to have lunch and resume at one o'clock.

25 MR. SEARS: Thank you, your Honor.

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MR. AINLEY: Thank you.

THE COURT: Stand in recess.

(Whereupon, a recess was taken at 11:46 a.m.
to resume at 1:00 p.m. of the same day.)

DECEMBER 24, 2008
1:11 P.M.

SIMPSON HEARING

APPEARANCES:

FOR THE STATE, MR. MARK AINLEY.
FOR THE DEFENDANT, MR. JOHN SEARS.

THE COURT: The record reflects the presence
of defendant, defense counsel, prosecutor, Detective Brown is
still on the stand.

You may proceed.

MR. SEARS: Just a moment, your Honor.

CROSS-EXAMINATION RESUMED

BY MR. SEARS:

Q. Detective Brown, when we broke this morning, I
think we were talking about the work you did at the Bridle
Path residence on July 6th. Am I remembering this right?

A. I believe so.

Q. Okay. Thank you.

Did you have a search warrant in hand
when you went out to Bridle Path residence on July 6th?

A. Yes, sir.

Q. Do you recall what evidence items you were looking
for on July 6 pursuant to that warrant?

A. The crashed computer was highlighted in there and
then any type of DNA-type evidence that --

Q. "Trace evidence", perhaps? Would that have been

1 the term used?

2 A. Yeah. I don't recall exactly, but possibly, yes.

3 Q. Were you the affiant for the July 6th, 2008 search
4 warrant?

5 A. Yes, I was.

6 Q. In fact, you were the affiant for all of the
7 earlier search warrants, for the most part; correct?

8 A. That is incorrect.

9 Q. Which search warrants were executed between
10 July 3 and July 6 that you didn't swear out?

11 A. The second search warrant at the Alpine Meadows
12 house.

13 Q. Okay. Now, let's talk a little bit about Evidence
14 Item 805, this door handle from the north door, I will call
15 it. We are talking about the same item. Are you with me on
16 that?

17 Would you tell us exactly what part of
18 the door handle was removed and seized.

19 A. A door -- a deadbolt door lock was removed and
20 collected and sent up to the lab, and then the door handle
21 was swabbed.

22 Q. Did -- the door handle was swabbed. The door
23 handle from the inside of the house?

24 A. Correct.

25 Q. Was there a door handle or knob on the outside of

1 the house?

2 A. I can't recall if it's a -- I believe it's a knob
3 on the outside.

4 Q. And that was not seized?

5 A. No, it was not.

6 Q. Just the -- and tell me about this deadbolt, if
7 you would.

8 Was the deadbolt the kind that you turn
9 with a key or the kind that you turn with a lever.

10 A. With a lever.

11 Q. And did that go all the way -- obviously, it went
12 all the way through the door; correct?

13 A. No, I don't believe it did.

14 Q. And the deadbolt, of course, would be on the
15 inside.

16 A. Correct.

17 Q. Okay. So the handle on the inside and the
18 deadbolt were taken. I'm sorry, the handle was swabbed, and
19 the deadbolt was taken.

20 A. The deadbolt from the inside was taken and the
21 handle was swabbed, correct.

22 Q. Were you, on July 6th, able to see what you
23 thought might be blood evidence on those items?

24 A. Correct.

25 Q. In that same vicinity, in the door jamb or the

1 threshold, did you see anything else that you thought might
2 be human blood?

3 A. Correct.

4 Q. Okay. And how was that collected?

5 A. A swab.

6 Q. And were there any other areas inside the house
7 that day that were examined and evidence collected?

8 A. From the garage. There was a vehicle that we
9 thought there was possible blood evidence on the seat.

10 Q. This would be have been Katie Democker's vehicle?

11 A. That's correct.

12 Q. Okay. And you thought blood -- you saw some blood
13 on the passenger seat?

14 A. That's correct.

15 Q. In fact, that was later -- you realized and you
16 determined it not to be blood.

17 A. That's correct.

18 Q. It was chocolate; correct? You sure it was
19 chocolate?

20 A. They didn't come back with a finding.

21 Q. They don't have a test for the presence of
22 chocolate?

23 A. I don't know. They test for --

24 Q. Okay. Thank you.

25 Now, anyplace else in the house besides

1 the door and Katie's car?

2 And if you need to look at your notes or
3 anything else, that is fine, and if you don't remember, that
4 is fine, too.

5 A. I don't remember, but I believe that is correct.
6 But I don't remember exactly.

7 Q. Okay. Fine.

8 Now, at some point in the course of this
9 investigation, the police developed a theory of the crime
10 that involved Mr. Democker at some point going through that
11 door on the north side, and originally you thought perhaps
12 out trying to get into or use Katie's car; correct?

13 A. That was a possibility.

14 Q. Of course the absence of any blood evidence in the
15 car changed that theory; correct?

16 A. We just didn't have blood evidence in the car.

17 Q. Yeah. Let's talk, if we could, for a minute.

18 Do you have your cheat-sheet for the four
19 Sears' key items?

20 A. Yes, sir.

21 Q. Because I don't. Just a moment.

22 Now, let's talk about Evidence Item 805,
23 the -- is 805 the deadbolt or the swab from the handle?

24 A. The swab from the handle.

25 Q. Okay. Was any blood evidence or cellular material

1 detected on the deadbolt?

2 A. Yes.

3 Q. Do you recall the results of the testing on that?
4 That wouldn't be on your cheat-sheet; right?

5 A. Correct.

6 Q. How did that test come back?

7 A. The blood came back to Miss Kennedy.

8 Q. Only?

9 A. Correct.

10 Q. Now, if you could look at your report, I am trying
11 to get the sequence of events on the door handle.

12 The first item entry you have is that on
13 August 1, D.P.S. crime lab finds human DNA on the --

14 A. Are we on the report, or are we on the
15 cheat-sheet?

16 Q. I'm looking at your cheat-sheet -- the report. I
17 don't want to say "cheat-sheet" too many times. Your summary
18 report. We'll call it that.

19 So what happens the first time is D.P.S.
20 analyzes this, finds human DNA, and it is a mixture. And
21 they say the first time out it matches the profile they had
22 for Miss Kennedy at all 14 loci; correct?

23 A. Correct.

24 Q. And then in the same report, it excludes
25 Mr. Democker completely as a contributor to the remaining

1 portion of the DNA; correct?

2 A. That's correct.

3 Q. And then there is another report five days later
4 from them that says they got Ms. Kennedy as the major
5 contributor at all 14 loci, but now it is inconclusive as to
6 the minor, but Steve Democker is still excluded -- again, the
7 second one, the 8/6/08 D.P.S. report. Am I reading that
8 right?

9 A. Both reports have "results from the minor
10 component are inconclusive."

11 Q. And they both -- both the 8/1 and 8/6/08 reports
12 exclude my client; correct?

13 A. Correct.

14 Q. All right. Then, a little over a month later --
15 and by the way, do you know what the difference between the
16 work done on August 1 and August 6 by D.P.S. is that causes
17 two different reports? Are they doing different tests?

18 A. No. Again, that was after the submission of
19 Knapp's DNA, and they supplied a report.

20 The way it works is the report comes out,
21 it has the information of what is supplied, and the results
22 from that -- what's supplied.

23 Q. So what is happening on the ground up here is
24 after you get this first round of reports back at the end of
25 July, first part of August. You then resubmit it, because

1 now you have collected swabs from a whole additional range of
2 subjects comprising mostly the law enforcement and responders
3 that were there and people that you knew had been in the
4 house, like the boyfriend and Jacob and those other people,
5 and you send that down and ask for a re-do?

6 A. Correct. There was two parts to that. After
7 Mr. Knapp's DNA was sent in by itself, there was a report
8 completed. And then after the submission of more DNA, a
9 report was completed.

10 Q. But to be clear here, on 805, on the swab from the
11 door handle where you thought you saw blood, the first two
12 times around they do the same work, except the second time
13 they've now got lots more people to compare. But regardless,
14 it comes back as excluding my client.

15 A. For the reports -- when you say "the same work,"
16 the analysis is done one time and they get results. And then
17 they compare to whatever new things come in. So they don't
18 work up that same item all over again.

19 Q. I'm sorry. I understand.

20 But they have got a minor contributor.
21 They can't, on August 1 or August 6, identify it as being any
22 of the people whose swabs they have -- Knapp, to begin with
23 and this much larger universe of people -- the second time
24 they are comparing it.

25 A. Again, it is not August 1st or August 6. That is

1 later on.

2 Q. I just have the dates on your summary report.

3 A. Correct.

4 Q. But nonetheless, the first two times they do this
5 comparison, they said -- the D.P.S. crime lab says it's not
6 Mr. Democker.

7 A. The first time, the only DNA sample they had was
8 Ms. Kennedy --

9 Q. I understand. I understand. You are correct.
10 Okay.

11 Then in September, you get another report
12 from the D.P.S. crime lab that says it's two individuals, and
13 the major component matches Virginia Kennedy, again at all 14
14 loci. But now the result for the minor component are
15 inconclusive.

16 Were they asked to compare whatever it is
17 they did in September to anybody? And to whom, I guess?

18 I am not understanding this September 8th
19 report. Is that yet just another comparison with more
20 samples now, or is it another analysis different than the
21 analysis on August 1?

22 A. That analysis was the analysis after the
23 submission of all the reports. They could have and they
24 should have put in that this DNA profile from Steve Democker
25 is excluded as a contributor in that.

1 Q. Again?

2 A. Correct.

3 Q. Okay. So between August 6 and September 8 they
4 have even more potential swabs to analyze, is that what
5 happened, that would cause you to do another report in
6 September?

7 A. The 9/8 report was created because of the
8 submission of the new swabs, correct.

9 Q. Okay. And you prepared reports and showed that
10 you expanded the people that you were asking to give samples
11 for exclusionary purposes; right?

12 A. Correct.

13 Q. But you are saying that certainly there was no
14 indication, September, that Mr. Democker was now identified
15 in any way with the DNA swab of the door handle; correct?

16 A. One more time, that question, please.

17 Q. Okay. I'll try and ask it in English this time.

18 In September, what you are saying is that
19 you would have expected that D.P.S. would have written back
20 and said, "And yet, once again, as we said the first two
21 times, Mr. Democker is excluded from the group of people that
22 we are comparing the sample to from being the minor
23 contributor to the DNA on the door handle swab"; correct?

24 A. And he could have been put on there as still
25 excluded; correct.

1 Q. Now, in September, a couple days later, you had --
2 apparently had the D.P.S. lab do this Y-STR analysis. So
3 they can do that; right? At D.P.S. they have the capacity to
4 perform that analysis?

5 A. That's correct.

6 Q. Okay. And they do that and they get a partial
7 male profile on the same thing, and now it's inconclusive
8 about whether Mr. Democker can be excluded or not; is that
9 right? That's a different test.

10 A. That's correct.

11 Q. Then Sorenson, on October 24, didn't -- and it is
12 not clear from this test they did -- whatever test they did,
13 they didn't identify the presence of the male chromosome at
14 all and said it's a mixture from these two contributors. But
15 they are not doing any comparisons?

16 A. We asked the D.P.S. lab to send the information
17 from the people that were sampled, I guess. They received
18 that. I don't know how they chose to do that.

19 Their first report did not include any
20 exclusions, if applicable. Their December 9th report did.

21 So, they got the information, and for
22 whatever reason -- I am not sure why, it was a
23 miscommunication -- it didn't include that information.

24 Q. But at the very end of your report on this item on
25 December 9th, just a few weeks ago, Sorenson now says that

1 the swab from the door handle, the north door, had a mixture
2 of DNA profiles that genetically type as female. And now
3 they are saying "analysis for the presence of the donor of
4 victim Kennedy was inconclusive."

5 That's what they say?

6 A. Yeah. Sorenson labs has a different result than
7 D.P.S. lab has. So they need to be looked at completely
8 separate in each case. And that's the reason I gave to
9 you that little data sheet I worked up --

10 Q. Yeah.

11 A. -- just so I could understand a little bit more
12 clearly. Because you can't -- there are two different labs.
13 D.P.S. lab runs what I think they call a CODIS search which
14 has 13 markers or loci with the additional 14, which is the
15 male or female gender. I don't know what that's called.

16 What Sorenson does is a mini profiler
17 which does -- tests a total of nine markers, one being the
18 female or male, and the other one being a different one than
19 what D.P.S. tests for it. So it's a different test, it's
20 different things.

21 D.P.S. lab would sometimes indicate the
22 presence of a male chromosome, and Sorenson did not detect
23 that. So different tests, different lab results.

24 Q. Except that in the September 9th Sorenson report,
25 apparently even though they don't see the presence of

1 Ms. Kennedy's DNA, they say Mr. Democker and Mr. Knapp are
2 excluded, once again.

3 A. That's correct.

4 Q. So now you have Sorenson and D.P.S. at a certain
5 level reaching the same conclusion through different methods,
6 correct, regarding the exclusion of my client?

7 A. The results indicate the same information.

8 Q. Okay. And except for this one --

9 A. And actually, I take that back. I apologize.
10 That is incorrect, because D.P.S. never was able to exclude
11 Mr. Knapp from the door handle.

12 Q. You didn't include the -- "Mr. Knapp inconclusive"
13 in your summary here in the first three D.P.S. items.

14 A. Yeah. Throughout my whole summary I never -- it
15 was inconclusive or an exclusion was made applicable, but I
16 never put in there "not an exclusion."

17 Q. We have to look at all of the data to see which
18 tests were inconclusive as to Knapp; correct?

19 A. Every test ends in either -- there's only -- from
20 all the DNA evidence that it has, only one test, which is
21 underneath the fingernails, has two profiles that are
22 complete. That is Miss Kennedy's and unidentified. All
23 others -- the door handle, the lights bulbs, the phone, the
24 barbed-wire fence -- has either -- if they can do it, some of
25 it's Miss Kennedy and inconclusive, and that's the way it is.

1 Q. I am reading your report right here and --

2 A. If you look at every report, it will have
3 inconclusive added unless it's -- the only one that does not
4 is the information about the fingernails.

5 Q. Help me out here, Detective. You put in your
6 report on this Evidence Item No. 805 that on two -- and you
7 say really on three of the D.P.S. evaluations -- 8/1, 8/6 and
8 9/8 and on the 12/9 Sorenson report -- every one of those
9 says, and should say, that Mr. Democker is excluded. Not
10 that it's inclusive. That he's excluded.

11 A. The results are inconclusive. They are able to
12 exclude -- and that's -- again, those are two different
13 things.

14 What it comes down to is if there is a
15 sample that has more than just two mixtures, and those
16 samples have to be very good mixtures to begin with -- good
17 samples -- they get a number of things, and they don't
18 connect altogether. They cannot give you a result. They are
19 able to make exclusions, because that person, whoever it be,
20 doesn't match to that. It doesn't have enough there to do
21 that.

22 Q. Wait. Wait. So we are on the same page.

23 So, backing up, three different times
24 from D.P.S. and at least once from Sorenson, they believe in
25 analyzing the evidence or comparing it, each of those times

1 they write a report that says among all the other
2 conclusions, "and Mr. Democker is excluded as a contributor
3 to the DNA on that day" in that report. That's correct;
4 right?

5 A. Each report where it's excluded, is what it says,
6 correct.

7 Q. There you go. Okay.

8 And conversely, you don't have any
9 report -- I think you said this now very clearly -- you don't
10 have any report from D.P.S. or Sorenson with respect to the
11 door handle swab that has a match of 14 loci to Mr. Democker,
12 do you?

13 A. He has been excluded. That is correct. So he
14 can't be matched to the door handle.

15 Q. Okay. Now let's talk about the light bulbs.

16 If I understand the testimony today and
17 the thousands of pages of disclosure that we have so far, a
18 theory that the police have advanced is that Mr. Democker got
19 into the house when Miss Kennedy was out for her evening run
20 and hid in the laundry room; correct?

21 A. That is a theory, yes.

22 Q. And for some reason unscrewed, partially, the
23 light bulbs; correct?

24 A. Three light bulbs were unscrewed in the laundry
25 room. That's correct.

1 Q. And there was an attempt -- you talked about it
2 with Mr. Ainley -- to have the light bulbs, the three light
3 bulbs analyzed for presence of trace evidence; correct?

4 A. For DNA -- they were sent in right away -- and
5 fingerprints.

6 Q. First, there was an effort to see if there was any
7 fingerprint evidence connected to Mr. Democker on the light
8 bulbs; is that right?

9 A. That's correct.

10 Q. And the answer is there wasn't.

11 A. That is incorrect.

12 Q. The answer is that they developed ridge detail of
13 value on Item 803. That is one of the light bulbs; right?

14 A. That's correct.

15 Q. Okay. So they found something they could analyze;
16 is that right?

17 A. That's correct.

18 Q. And it says here, "No identifications were made of
19 submitted prints (Steven Democker)." My client; right?

20 A. That's correct.

21 Q. Okay. Does that mean what it says?

22 A. The first time you asked me it was not the same
23 question.

24 Q. Okay. 803, one of the light bulbs, they found
25 some ridge detail fingerprint information, but it didn't

1 match Mr. Democker; correct?

2 A. That is correct.

3 Q. Okay. Now, was there any ridge detail on the
4 other two light bulbs that was developed?

5 A. No, sir.

6 Q. So the net result is there's no fingerprint
7 evidence, either because what they do find doesn't match
8 Mr. Democker, or they can't find any fingerprint evidence at
9 all to compare to Mr. Democker.

10 A. There is no fingerprint evidence to Mr. Democker.
11 That is correct.

12 Q. There you go. Okay.

13 Now, let's look at the DNA work on the
14 three items. And I think we're talking about 800, 801, and
15 803; is that right?

16 A. Correct.

17 Q. What are 801-A, 800-A, and 803-A? Are those
18 swabs?

19 A. I believe those are swabs from D.P.S.

20 Q. Swabs. Okay. And so in general, on these light
21 bulbs -- 800, 801, 803, and 800-A, 801-A and 803-A -- did
22 D.P.S. or Sorenson find any DNA evidence that they said was
23 identified as being contributed by Mr. Democker?

24 A. Again, inconclusive results.

25 Q. And we could probably never agree about what that

1 means, but the answer, I think, would be no, they didn't find
2 any evidence of Mr. Democker's DNA that they could identify
3 as his.

4 A. Inconclusive results.

5 Q. Period. Okay. Now let's talk about the swab in
6 the fence.

7 First, could you tell Judge Lingberg
8 where this fence is in relation to the house and to the scene
9 where the body was discovered.

10 A. The barbed-wire fence that -- the referencing the
11 901 and 900s, are to the east of the property. And it
12 borders the ranch land to the east.

13 Q. Any sense how far that fence is from the back of
14 the house?

15 A. 20 yards, approximately.

16 Q. And when did the police first begin to look at
17 that fence and that fence area for biological or trace
18 evidence?

19 A. On July 3rd.

20 Q. Were you involved in that?

21 A. I was privy to the information. I was not
22 involved in that portion.

23 Q. Was any evidence or evidence items collected from
24 the fence on July 3rd?

25 A. No, sir.

1 Q. I'm sorry?

2 A. No, sir.

3 Q. When was the evidence that has the 900 and 901
4 numbers actually collected?

5 A. On July 8th.

6 Q. That would be the following Tuesday? If the
7 homicide was the 2nd, Wednesday the 2nd --

8 A. That's correct. Tuesday.

9 Q. That would be a Tuesday, which would be the third
10 time the police were out at the residence; correct?

11 A. That's correct.

12 Q. They got there on the 3rd, you clear the scene.
13 You come back on Sunday the 6th with a search warrant, and
14 you get the door handle evidence, and you get the crashed
15 computer; correct?

16 A. Correct.

17 Q. And then you come back again?

18 A. Hold on. I may be incorrect on that statement.

19 The crashed computer might not have been
20 picked up until the 8th. I can refer to my notes, if I can,
21 to verify that.

22 Q. What I am getting at is just the number of times
23 and the general work that you do. You did a very thorough,
24 all-day processing of the scene on the night of the 2nd and
25 all day on the 3rd; correct?

1 A. Processed the scene on the 3rd and secured it on
2 the 2nd.

3 Q. And then on Sunday the 6th you come back and you
4 did all the work you told us about, looking at other parts of
5 the house, other than just around the place where the body
6 was discovered; correct?

7 A. Correct.

8 Q. And then on the 8th you come back, and that is
9 when you have personnel from the Gilbert Arizona Police
10 Department with you; is that right?

11 A. That's correct.

12 Q. Tell the judge what that work was about.

13 A. We asked that they assist us. They have a
14 chemical agent called "Bluestar" that detects blood evidence
15 that is either cleaned up or not visible to the human eye.
16 So we asked if they could come out to help us to determine if
17 there were things going on in the house that we were not able
18 to see.

19 Q. Is it something like Luminol? Is it the same
20 idea?

21 A. Correct. It is similar to Luminol. It doesn't
22 deteriorate the item of evidence, so you can still get DNA.

23 Q. And so the idea is that you put this product out,
24 and then you use an alternate light source, a black light or
25 something, looking for it. Is that the way it works?

1 A. It just has to be a dark room, and then it will
2 just show.

3 Q. Okay. Now, when were the Gilbert people asked to
4 come up and do that work?

5 A. On the 8th.

6 Q. They came up the same day they were asked?

7 A. Correct.

8 Q. And is that because on the 6th, when you were in
9 the house, there seemed to be some indication that perhaps
10 efforts had been made to clean up part of the house, pretty
11 much -- some of the blood?

12 A. Actually, that was on the 8th we thought that.

13 Q. You saw that on the 8th?

14 A. On the 8th is when we thought that, not the 6th.

15 Q. Okay. You were just going to have them come up
16 anyway because you wanted to see if there was any otherwise
17 undetectable blood evidence in the house that couldn't be
18 seen with the naked eye?

19 A. On the 8th, when we were in the house, Detective
20 Jaramillo thought he saw other possible blood evidence in
21 different areas. So we thought it would be great just to get
22 them up there to see if they could tell us what took place
23 with the use of this.

24 Q. Why were you initially back in the house on the
25 8th?

1 A. Again, that's why I think if it wasn't for the
2 crashed computer -- we still had access to the house from the
3 search warrant on the 6th, and we were going try to conduct a
4 walk-through with Katie Democker.

5 Q. Between the 2nd and the 8th, the house was cleared
6 and not secured?

7 A. That's correct.

8 Q. Do you know whether Mr. Knapp was in the house
9 between the 6th and the 8th?

10 A. I believe he was. I am not positive on that, but
11 I believe he was.

12 Q. Tell me -- tell me what Detective Jaramillo told
13 you or showed you that made him think that perhaps some
14 effort had been made to clean this house up.

15 A. There was a light switch by the front entrance
16 door, which is the west door. It looked like there was a
17 smear on there. There was a little red dot on the outside,
18 and -- which he thought was blood. And then also by the
19 front entrance or the inside, down by the partial wall.

20 Q. The partial wall being towards the kitchen area?

21 A. No. Between the dining room and the living room.

22 Q. The living room is kind of sunken down a step or
23 two; is that right?

24 A. That's correct.

25 Q. And, in fact, the Bluestar testing that was done

1 in those areas didn't detect the presence of blood?

2 A. That's correct.

3 Q. So whatever you were looking at --

4 A. Wasn't blood.

5 Q. -- looked like blood, wasn't blood.

6 A. That's correct. And actually, the Bluestar
7 product detects possible traces. They use some other
8 chemical to actually test whatever that is.

9 Q. I am just looking from the report. You said that
10 they did the Bluestar work. It came back negative for blood.
11 That is just a shorthand for Bluestar and some other
12 chemical?

13 A. That's correct, sir.

14 Q. Did you see any other places where it looked like
15 somebody had tried to clean? Was there any effort to clean
16 the Saltillo tiles, for example, in the hallway at the scene?

17 A. No, sir.

18 Q. Did you ask Mr. Knapp if he cleaned up in the
19 house?

20 A. I did ask that.

21 Q. What did he say?

22 A. He said he had not.

23 Q. Now, looking at -- going back to -- I think we
24 covered the light bulbs. I think we covered the door handle
25 and the deadbolt. And I think we covered the cell phone.

1 One question about the cell phone, 507,
2 do you know what part of the cell phone the cellular material
3 was recovered from? Was it from one of the buttons?

4 A. It is a cordless phone, first, to make sure that
5 it is correct.

6 Q. What did I call it, cell phone? I'm sorry. The
7 cordless phone.

8 A. No, I don't know the second part of the answer.

9 Q. Thank you. Now, let's talk about the material
10 under the fingernail and see if we can summarize that.

11 First, what fingernail -- from which
12 finger of Miss Kennedy's are we talking about?

13 A. The best I can tell you is the left fingernails.

14 Q. And this was collected by whom?

15 A. The medical examiner's office on July 3rd.

16 Q. During the autopsy?

17 A. Correct.

18 Q. And the first report you get back is the same
19 pairing of reports on August 1 and August 6th. And if I
20 understand what you said in response to the other items we
21 talked about, by August 1 they had at least Mr. Democker's
22 DNA profile and Mr. Knapp's DNA profile; is that right?

23 A. By August 1st?

24 Q. Yes.

25 A. No. They had Mr. Democker's.

1 Q. Just Mr. Democker's.

2 So the first report comes back and they
3 have a complete match to Miss Kennedy for this material;
4 correct?

5 A. They had a complete match at that time, also, to
6 an unidentified male.

7 Q. Okay. Well, it says -- and I'm just looking at
8 the report. It says the minor component is from an
9 unidentified male source. But you believe that first D.P.S.
10 report says that is a complete match also for the minor
11 contributor?

12 A. That's correct.

13 Q. Is there a reason why in that report they wouldn't
14 have excluded Mr. Democker and made some comment about
15 Mr. Democker? They have a complete match to the two
16 profiles, and they have Mr. Democker's profile.

17 A. They don't need to make an exclusion. It's
18 someone -- they are saying this is someone else. There is no
19 exclusion necessary.

20 Q. So this is an investigation of Mr. Democker;
21 correct?

22 A. So there's two samples. One is identified as
23 Miss Kennedy. One is identified as an unidentified male.

24 Q. Okay. So that's the same thing as excluding
25 Mr. Democker?

1 A. They're excluding everybody.

2 Q. Everybody that they have.

3 And then on the 6th --

4 A. I take that back. On the 1st they're excluding --
5 the only sample they had is Mr. Democker. I don't know the
6 best way to put this. The only -- if you look at the lab
7 reports, the chances of one, whatever it is, they are saying
8 that this profile is this thing. So unless you give us that
9 profile, we're not going to -- not going to be able to
10 exclude other people.

11 Q. So you did. So by the time they issued a report
12 on the 6th, they have another group of profiles to compare,
13 and they do that. And the report on the 6th says still an
14 unidentified male. Nobody you sent us yet.

15 A. By the 6th, Mr. Knapp was the only other person
16 put in, and it came out the same.

17 Q. Then by the 8th, still is the same. It is still
18 Ms. Kennedy -- a complete match in Ms. Kennedy, and it's
19 still a complete match to somebody yet unidentified to them;
20 correct?

21 A. That's correct.

22 Q. Now 9/11, there's the Y-STR testing done by
23 D.P.S., and now they are saying that the male DNA is a
24 mixture of two individuals. Major component is unidentified
25 male. But now it is inconclusive about whether Steve be can

1 excluded or not as a possible contributor. That's how that
2 shifts; right?

3 A. A different test is just different results that
4 they're able to go off of that test.

5 Q. And then you have an 11/14 fax from D.P.S. with
6 profile summaries. And now they go back to the victim is
7 60 percent, and it's a complete match; is that right?

8 A. What it's saying there when they say victim being
9 60 percent -- when they swab the nails, they get a sample.
10 That sample is a mixture. They are saying 60 percent of that
11 mixture is going to this; 40 percent is going to that, is
12 what they are saying.

13 Q. But is it your understanding that on November 14th
14 D.P.S. is now saying that the 60 percent contributor is Carol
15 Kennedy, a complete match at all 14 loci?

16 A. That's what that report is saying, yes.

17 Q. And then the remaining profile is back to being a
18 complete match to a person with a complete profile who is not
19 Mr. Democker.

20 A. It's the unidentified male. It's not
21 Mr. Democker. That's correct.

22 Q. And not anybody else, so we're back to that.

23 A. Not anyone else that we've identified.

24 Q. Okay. Now, was a CODIS search, to your knowledge,
25 ordered and run on this unknown male profile?

1 A. Yes, sir.

2 Q. With what result?

3 A. They have no -- nothing came back to the CODIS
4 search.

5 Q. And was -- if I understood what you said on direct
6 examination, that complete profile from the fingernail DNA
7 was matched to the complete profile on the door handle?

8 A. Okay. Please ask that question again.

9 Q. I thought that I heard you say on direct
10 examination that some cross comparison -- that there are two
11 places where you have complete unidentified profiles;
12 correct?

13 A. No. I did not say that. What I said was the last
14 Sorenson report that we had coming out, they were able to
15 exclude the unidentified male from the door handle. That's
16 what I said.

17 Q. The door handle wasn't a complete profile?

18 A. The door handle has been inconclusive from the
19 start on the minor component.

20 Q. But they can say, with whatever authority Sorenson
21 has, that the inconclusive male donor on the door handle is
22 not the same individual as the unidentified person that shows
23 up in the DNA under Miss Kennedy's fingernails.

24 A. They are able to exclude the unidentified male
25 from the fingernails from the door handle.

1 Q. Have any similar comparisons been made to the
2 complete profile of the unidentified male's DNA from the
3 fingernail evidence to any other evidence item, beside the
4 swab from the door handle in 805?

5 A. Yeah. I asked both D.P.S. lab and Sorenson to do
6 the same thing with all the other materials.

7 Q. Have those reports been completed?

8 A. Except for the Sorenson, yes.

9 Q. And what are the results of the D.P.S.
10 comparisons? Did they find any matches or similarities
11 between the complete profile of the unidentified male that is
12 derived from the fingernail evidence to any other of these
13 males?

14 A. Again, those results are inconclusive because of
15 the sample mixtures.

16 Q. Are you waiting for Sorenson?

17 A. No. Sorenson -- waiting for an actual printout.
18 But what I told you is what they said, that that sample, that
19 unidentified male can be excluded from the door.

20 Q. Were they asked to compare the unidentified male
21 from the fingerprint to other items besides the door handle
22 swab?

23 A. You just asked me that a few seconds ago.

24 Q. I'm sorry?

25 A. You asked that same question just a bit ago. I

1 already answered that.

2 Q. If you would indulge me and answer it again.

3 A. I asked them to do the same thing.

4 Q. And have you gotten results from them?

5 A. Again, the results are inconclusive.

6 Q. Except for the one exclusion, which is the door
7 handle.

8 A. Yeah, I've already -- the exclusion to the door
9 handle has been brought up.

10 Q. I'm sorry. I am old and slow.

11 A. That's all right.

12 Q. Thank you. Now, going back to the fence, 900 and
13 901. 900 was a swab -- this is a barbed-wire fence; correct?

14 A. Correct.

15 Q. And some police officer thought they saw what
16 might be blood on this barbed wire; is that right?

17 A. When we did the -- when the Gilbert police
18 department came up and did the Bluestar, it flouresced. They
19 tested it, and it came back with the presence of blood.

20 Q. And in fact, part of the operating theory by the
21 time Gilbert arrives on July 8th is that the perpetrator --
22 my client -- came from the ranch land, hopped the fence in
23 that area, went up to the house and went -- or went back the
24 same way, leaving the blood evidence on that barbed wire.
25 That was an operating theory at that point; is that right?

1 A. On July 3rd, there was evidence to support that
2 there was a person that jumped over the fence. There was
3 shoe tracks there. And then when we went back on the 8th,
4 they detected blood in that same location.

5 Q. And of course, these are the shoe tracks that do
6 not match any shoe seized or photographed in connection with
7 the searches of Mr. Democker's various residences; correct?

8 A. That's correct.

9 Q. Now, the report says there is no blood on the
10 swab. And then on 901, they see blood on the actual section
11 of the barbed-wire fence; correct?

12 A. They detected it.

13 Q. They detected chemically.

14 Then 901-A, I guess -- is 901-A a D.P.S.
15 swab from a piece of barbed wire?

16 A. 901-A is -- yeah, correct. A swab from the piece
17 of wire.

18 Q. Then they start the process on about the same
19 date. So on August 1, they isolate human DNA, but they get
20 inconclusive or no results. What's a "no result"?

21 A. It means there's nothing there that they detect.

22 Q. Well, why does it say "inconclusive" or "no"?

23 A. Depends on the location.

24 Q. Then on October 3rd, Sorenson comes back with a
25 report on the actual piece of barbed-wire fence and says it's

1 inconclusive when testing for the male and female
2 chromosomes. Then there is three possible contributors at
3 one marker, a single identified allele at two markers, and
4 inconclusive results at six markers. That's a pretty
5 thorough discussion of their actual report; right?

6 A. That's me discussing that.

7 The profile summary is -- it just has the
8 locations with the different -- they are just numbers. And
9 so that's what I wrote, what's on this indication. So that's
10 not coming direct from Sorenson. That is coming directly
11 from me.

12 Q. And then on October 6 Sorenson says, "We have a
13 mixture of DNA on 901," and they don't do any other analysis.

14 And then on November 14, D.P.S. does
15 profile summaries with different dates. And 900, which is
16 the first swab and 901-A which is, apparently, a second swab
17 of the actual piece of fence, no results for the entire
18 screen. What does that mean, "no result"?

19 A. If you look at the reports from D.P.S., it will
20 summarize that.

21 Q. Can you summarize it?

22 A. Yeah, there's no results. It's got an "NR" on
23 each of the loci. So they don't detect anything.

24 Q. And then Sorenson, on the 8th of December, says it
25 is a mixture, but they didn't do any other analysis.

1 So as to the fence evidence, the swabs
2 and the actual piece of fence, you would say it is
3 inconclusive. I would suggest to you that there is no
4 evidence that links Mr. Democker in any conclusive way to the
5 evidence on the fence; correct?

6 A. It is inconclusive, Mr. Sears.

7 Q. Okay. Now, with respect -- there is lots of other
8 blood evidence that was collected in this case, not only from
9 the scene at Bridle Path beyond these four items that you
10 have summarized carefully here, there were lots of other
11 places that blood evidence was collected; correct?

12 A. Lots from the location where everything took
13 place?

14 Q. Yes.

15 A. Correct.

16 Q. Is there any laboratory report that you know of
17 with respect to the other blood evidence or DNA evidence that
18 is not blood at the Bridle Path scene that constitutes a
19 match to the profile of Mr. Democker that you have?

20 A. Ask that one more time.

21 Q. Beyond these four areas -- the ones that you call
22 the Sears' key areas, which is the phone, the fingernail, the
23 door handle, and the light bulbs -- on all of the other blood
24 evidence, everywhere else at the scene -- I'm sorry, and the
25 fence. The fence -- all the other places that you

1 collected -- when I say "you," I mean the police -- collected
2 DNA or blood evidence and sent that out to be analyzed, is
3 there a report in existence that says Mr. Democker's profile
4 matches the DNA collected at the scene?

5 A. The only other items or evidence that were
6 collected, reference blood evidence or DNA evidence, came
7 directly back to Ms. Kennedy and no one else.

8 Q. And so to finish that, and not to Mr. Democker.

9 A. Only one -- only one. So yes, it can't be
10 Mr. Democker. That's correct.

11 Q. Now, there was a search conducted of my client's
12 residence in Prescott, his automobile -- actually, multiple
13 searches of his residence -- his office, his residence in
14 Scottsdale. We know that a considerable amount of evidence
15 was collected. Let's start with his townhome here in
16 Prescott, the Alpine Meadows location.

17 And the purpose of collecting a lot of
18 that was to look for blood or DNA evidence that would link
19 those items which were at his home to the scene that would
20 have Miss Kennedy's blood or DNA on it; correct?

21 A. That's correct, sir.

22 Q. And it's true, isn't it, that you have no lab
23 report that has come back for any of the items that you
24 collected -- his clothing that he was wearing that night, his
25 shoes -- that have Miss Kennedy's blood on them that were

1 found at his residence?

2 A. That's correct, sir.

3 Q. There was some blood found on the pump of his
4 bicycle, but it turned out to be Mr. Democker's blood;
5 correct?

6 A. That's correct.

7 Q. How about unidentified sources? Was there any
8 unidentified DNA found on Mr. Democker's -- or any attempt to
9 look for unidentified DNA on Mr. Democker's property -- his
10 clothes, his car, his shoes?

11 A. In the drain hose. There was inconclusive results
12 from the inside swab of the drain hose from the washing
13 machine.

14 Q. And what had happened was Mr. Democker told you
15 that night that he had put in a load of wash that included
16 what he had been wearing on his bicycle ride. And then when
17 you came back to execute the search warrant, you swabbed the
18 drain and the washing machine, you pulled the hose out. You
19 did the same for sinks, showers -- that's correct? -- looking
20 to see if anything had been washed there off the clothes and
21 found none of Miss Kennedy's blood anywhere; correct?

22 A. That's correct.

23 Q. All right. And that would also include his car;
24 is that right?

25 A. That's correct.

1 Q. What about fingerprint evidence? Did you look --
2 other than on the light bulbs, did you look elsewhere at
3 Bridle Path for fingerprint evidence that would link
4 Mr. Democker to the scene?

5 A. D.P.S. did.

6 Q. Did they find any of his fingerprints at the
7 residence?

8 A. They didn't find any.

9 Q. Mr. Knapp's thumbprint was on a document inside a
10 magazine on the kitchen counter.

11 A. I apologize. When I said no other, that is from
12 the search on the 3rd. You are correct on that.

13 Q. Let's shift gears here. Let's talk about the
14 trails and the work that you did there.

15 Let me show you Exhibit 65, which is
16 marked for identification now, which is -- do you recognize
17 Exhibit 65 as being also like Exhibit 64, a map of the -- at
18 least portions of the trails in the Granite Mountain area?

19 A. I have never seen that map before.

20 Q. Do you want to take a minute and look at it and
21 see if it looks like a map of trails?

22 A. If you let me see that one, also.

23 Q. This is Exhibit 64 in evidence.

24 A. It appears to be similar. It's just that it's not
25 showing Trail 309.

Q. That's right. And I will tell you that this is obtained from a book of mountain bike trails that may have been a little bit older than this forest service map.

I would move -- this is 65 -- I would
move 65.

MR. AINLEY: It's duplicative. It is the same as 64.

MR. SEARS: It is a little easier to see, your Honor. It doesn't have the topographic contours and it doesn't have the coloring. It just isolates the trails.

MR. AINLEY: It's incomplete. It doesn't have the trail we're talking about.

MR. SEARS: I wasn't suggesting it did. It does have some trails that I am going to ask Detective Brown about.

THE COURT: I will admit 65 for that particular purpose.

MR. SEARS: Thank you.

Q. Would you be more comfortable working from this green map?

A. I would be able to work better, probably, from the green map.

Q. Okay. Let me see if I understand what you said to Mr. Ainley, here.

You said that in the early morning hours

1 of July 3rd, you said around 4:00 or so, before the sun had
2 actually come completely up, you and Detective Jaramillo went
3 off to see if you could find the area where Mr. Democker had
4 told you a few hours earlier he had been riding his bike the
5 night before; correct?

6 A. That's correct, sir.

7 Q. Now, I understand that you are not terribly
8 familiar at this time with this area. This is pretty much
9 new territory to you; is that right?

10 A. That's right.

11 Q. You had been working out in the Mayer area?

12 A. In Cordes.

13 Q. Had you ever been to this area before, Granite
14 Mountain Trails?

15 A. I'd been on Granite Mountain Trails, yes.

16 Q. Okay. Now, when Mr. Democker was at the sheriff's
17 office here in town and describing where he had ridden, he
18 actually drew a pretty crude map, at your request, of where
19 he said he had been riding; is that right?

20 A. That's correct.

21 Q. On a white board, and you took some pictures of
22 that map; right?

23 A. That's correct.

24 Q. And what he told you was that he had eventually
25 driven out from his home south of here with his bike in his

1 car and had gone up and parked up at the top end of a street
2 called Rainmaker; correct?

3 A. That's correct.

4 Q. And that he told you some details that he and his
5 ex-wife had owned a lot up in that area at one time. He told
6 you that; right?

7 A. That's correct.

8 Q. And that he liked the area and he liked the view,
9 and it was particularly suitable because he could park there
10 and there were no houses up at the top end; is that right?

11 A. That's right

12 Q. Have you ever actually now been up to the top end
13 of Rainmaker?

14 A. Yes, sir.

15 Q. And it's as he described it, isn't it?

16 A. Yes, it is.

17 Q. There is at least a block or so up at the very top
18 where there are For-Sale signs but there are no houses.

19 A. That's correct.

20 Q. And that's where he told you he parked; is that
21 right?

22 A. That's correct.

23 Q. Did he describe for you how he proceeded on his
24 bike from that location up at the top of Rainmaker when he
25 started out on his ride?

1 A. He described that he went down a hill and then
2 went to the trail.

3 Q. And you had, obviously, never been on that
4 particular part on your bike, I can assume; right?

5 A. I have never been there on my bike, period.

6 Q. Okay. And you see on this forest service map
7 there is actually a trail now called "Trail 309," and it
8 shows that it ends in a little cul-de-sac called "Boone
9 Court"; is that right?

10 A. That is what this map says.

11 Q. Did Mr. Democker tell you that he rode down and
12 across here and accessed this trail through Boone Court?

13 A. No, sir.

14 Q. Did he talk about being on Love Lane at some
15 point?

16 A. He said the trail was at the end of Love Lane.

17 Q. And so when you and Detective Jaramillo started
18 out that night, you didn't bother going up to Rainmaker, you
19 just went directly to Love Lane. Am I understanding you?

20 A. That's correct.

21 Q. Had you ever been up Love Lane before that night?

22 A. No, sir.

23 Q. And you come up Love Lane, and this area
24 generally, you can see from contours here, when you start
25 down here on Williamson Valley Road in the upper right-hand

1 corner, it climbs pretty steadily. It starts to go uphill;
2 correct?

3 A. After a certain portion, yes.

4 Q. And Love Lane is paved up to a certain point, and
5 then it goes -- you described it as rock. It's dirt and
6 rocks; correct?

7 A. Different portions of Love Lane --

8 Q. And what I think you were pointing to is, as you
9 come up Love Lane here, there is a little spur that goes down
10 and dead-ends. And that appears to be this little spur that
11 is shown here on this exhibit; correct?

12 A. That's another one. There is also another one by
13 Boone Court.

14 Q. I am talking about the one off Love Lane.

15 A. All that's Love Lane. There is no different road
16 markers on any of that portion.

17 Q. You are saying that Love Lane goes in two
18 different directions at the same time?

19 A. Yes, sir.

20 Q. Whether it's Love Lane or not, there is a spur
21 here, and you described being on that, and you described that
22 as a rocky road; right?

23 A. That is not the location of the spur that I was
24 on.

25 Q. What if you take -- if you could use the judge's

1 laser pointer here, and just hold the button down and point
2 to me what spur you are talking about.

3 A. It would be approximately right here. That is
4 approximate.

5 Q. It's not this spur to the east that has houses
6 shown on this forest service map?

7 A. No, because when you come off of Boone Court, you
8 don't go that way. You go this way.

9 Q. Is the spur that you were on, does it have houses
10 on it?

11 A. Yes, sir.

12 Q. It has a house at the end about where this one is
13 shown here and two houses on the east side; correct?

14 A. Again, it's over here. There is a house right
15 here. There is a house right here. There is a house right
16 here.

17 Q. Resume your seat, if you would. Thank you.

18 And so you went down this spur -- is this
19 the spur at the end that has what looks like a little well
20 house or a pump house?

21 A. There is a well house in between the two -- in
22 between the properties.

23 Q. And as you are driving in on the spur on the west
24 side, it would be to your right, there is a house that has
25 some barking dogs in it; right?

1 A. There is a house with barking dogs to the right of
2 that well pump.

3 Q. And there is some dog kennels and horse corrals
4 associated with that house?

5 A. Correct.

6 Q. You know now, from your trip on the 13th, when you
7 are walking back the other way, when you came on foot down
8 here and walked up 309 this way, that this Trail 309, as it
9 gets up towards that spur and Boone Court becomes what bikers
10 call "single track"; correct?

11 A. Correct. They call it single track.

12 Q. And it's a road that's kind of rutted out and it's
13 a little bit deep and fairly rocky in various places along
14 this strip; right?

15 A. Correct.

16 Q. And there's one place where it crosses a wash -- a
17 dry wash?

18 A. That's correct.

19 Q. And when you get up here, then you're up in the
20 houses again. You come right up by that house and the dog
21 kennels and the well house; is that right?

22 A. Yeah. I thought I came up in someone's backyard;
23 correct.

24 Q. Okay. And there's -- at that point on this little
25 Love Lane spur here, there is nothing that would indicate to

1 you or anyone else that that's an active trailhead. There is
2 no sign or parking area or toilet or anything at that area;
3 right?

4 A. That's right.

5 Q. There is just a little single track trail that
6 takes off down next to the house; right?

7 A. That's correct.

8 Q. That is where Mr. Democker -- where you think,
9 now, Mr. Democker told you he was riding that night; is that
10 right?

11 A. Correct.

12 Q. But you and Detective Jaramillo that morning just
13 couldn't find -- because you were unfamiliar with the
14 area -- that trail. You were very close to it, but you
15 couldn't find it; right?

16 A. That's correct.

17 Q. And presumably, if Mr. Democker was telling the
18 truth, there might have been bicycle tracks where he said he
19 was riding; correct?

20 A. It is possible there were tracks.

21 Q. But because you couldn't find that area, we'll
22 never know; right?

23 A. Correct.

24 Q. Because you don't come back again for ten days.

25 A. I personally don't. I know my sergeant went back

1 to that location or went to that location.

2 Q. Between the 3rd and the 13th?

3 A. Correct.

4 Q. Okay. Did he look for bicycle tracks in this
5 area?

6 A. By that time it had rained, so I don't believe he
7 looked for them.

8 Q. Okay. Now, conversely, the police, sometime in
9 the middle of the night, found these bicycle tracks over
10 here -- and let me get this exhibit. This is 66.

11 The police did find some bicycle tracks
12 on the other side of Williamson Valley Road at the end of a
13 street called Glenshandra; correct?

14 A. Correct. Glenshandra, yes.

15 Q. Yeah. And that's right here. It's north of this
16 "A" in the balloon here that was previously identified as the
17 approximate location of the scene, the end of Bridle Path.
18 And here is Glenshandra.

19 A. I have never seen that map before. It's different
20 than what our county maps show. It's a little bit different
21 than what our county maps show.

22 Q. Okay. In what way?

23 A. Glenshandra -- the distance between the end of
24 Glenshandra and Bridle Path appears to be quite a bit larger
25 or longer a distance than it shows on the county map.

1 Q. And, of course, there is no scale on this.

2 A. From what I saw, that looks way off.

3 Q. Okay. Does this generally depict the direction
4 that Glenshandra runs? It runs more or less east off of
5 Williamson Valley Road and ends at the ranch land?

6 A. That would be correct.

7 Q. There is a gate -- a locked gate at the end of
8 Glenshandra; correct?

9 A. That's correct.

10 Q. And just on the other side of the gate is where
11 these bicycle tracks were located; correct?

12 A. Yes.

13 Q. Mr. Democker never told you that he rode his bike
14 over there, did he?

15 A. No, he did not.

16 Q. But he said all his bicycle ride was on the other
17 side. You can see here, here is Rainmaker here, here is
18 Boone Court, here is Love Lane, that same spur that you say
19 is not the right one.

20 A. When I say it's not the right one, I just say in
21 the map that it is -- it's that positioning is not correct.
22 I am not saying it's not the right spur. I am saying it's
23 the positioning that's not correct.

24 Q. To be correct, there is a spur that comes off Love
25 Lane -- whether it is Love Lane "A" or whatever -- it comes

1 off Love Lane, and it goes down. And you and I have agreed
2 that there is a well house or something like that at the end
3 of it. We're talking about the same place.

4 A. I agree with that.

5 Q. You said actually that night or that morning you
6 went all the way out Love Lane, and it sort of dead-ended up
7 somewhere in this area here. There is a road bladed in and
8 some For-Sale signs, but no houses; correct?

9 A. Correct.

10 Q. It doesn't keep on going?

11 A. We only went as far as we could. It was -- it was
12 kind of wet.

13 Q. Now, if I understand what you are saying is you
14 didn't go down -- no one took you down or you didn't go down
15 on the 3rd to look at these bicycle tracks that were located
16 at the end of Glenshandra; is that right?

17 A. On the 3rd, I did not go there.

18 Q. Okay. And when you did go back, were they still
19 there?

20 A. No. When I went back, they were not there.

21 Q. So you have never seen those bicycle tracks. You
22 have just seen pictures of them?

23 A. That's correct.

24 Q. On the 13th, if I understand what you did, you
25 started on foot at the Williamson Valley trailhead, which

1 is -- one more time with the map -- the Williamson Valley
2 trailhead is an organized trailhead with a parking area, pit
3 toilet, and signs; correct?

4 A. That's correct.

5 Q. And that is located, off this Exhibit 64, to the
6 north. That would be at the intersection of Trail -- this is
7 347, and then Trail 308 goes off, and it's up here someplace;
8 correct?

9 A. That would be correct.

10 Q. So you drove in Williamson Valley out here, parked
11 there, and then on foot started up, came down 347, walked up
12 this hill here, through the gate here at the top, and started
13 down 347.

14 If I understand your report, you ran into
15 somebody who helped point out this spur up here; is that
16 right?

17 A. Prior to getting there, I talked to someone
18 walking.

19 Q. There are actually some Indian ruins up on top of
20 this hill. Did you see that?

21 A. No.

22 Q. Okay. You go up -- you go up 309 on foot. Are
23 you alone?

24 A. Yes.

25 Q. And then when you get up here, where do you stop

1 and turn around?

2 A. For the most part, where we are saying the well
3 pump is.

4 Q. Okay. And that's when you start timing your walk,
5 this other direction; correct?

6 A. That's correct.

7 Q. And you come down where Mr. Democker told you,
8 down 347, down this way to here. 348 goes down in mid wash.
9 It goes down this hill here, but you kept on straight on 347,
10 made this jog down here, and went through this gate; is that
11 right?

12 A. That's correct.

13 Q. Now, did Mr. Democker tell you where he got the
14 flat tire and turned around?

15 A. No, he did not.

16 Q. Did you ask him?

17 A. Yes.

18 Q. Was he able to explain generally where he thought
19 he was?

20 A. The rough map that you indicated that he drew, it
21 was just out here. There wasn't trail markers or trail names
22 or anything like that.

23 Q. Well, you go through a gate here, and it comes --
24 and you take the right fork here, and then it eventually
25 comes down in a subdivision called Ho-kay-gan.

1 And you went all the way down to this
2 trailhead here on a street called Dineh; right?

3 A. Correct.

4 Q. And somebody picked you up so you didn't have to
5 walk back?

6 A. That's right.

7 Q. You said that took you just under an hour and a
8 half; is that right?

9 A. An hour and 26.

10 Q. You obviously weren't wearing bicycle shoes?

11 A. No, sir.

12 Q. With cleats on the bottom?

13 A. No, sir.

14 Q. And you weren't pushing a bike with a flat tire?

15 A. No, sir.

16 Q. This was -- the 13th would have been -- if I'm
17 doing this right, a Sunday?

18 A. That's correct.

19 Q. And it was a nice day? A summer day?

20 A. It was a nice day. It was cold. No, actually, it
21 wasn't cold.

22 Q. Alert the media, it was cold on July 13th.

23 A. I think it was getting ready to rain.

24 Q. Okay. All right. Did you see people on the
25 trail?

1 A. Yes. I saw a lot of people.

2 Q. Do you remember about what time -- was it morning
3 or afternoon?

4 A. I could look in the report. I don't recall
5 exactly what time.

6 Q. You didn't start at 6:30 at night?

7 A. No, sir.

8 Q. On a weeknight?

9 A. No.

10 Q. Okay. Was there any effort made -- I mean,
11 there's been some comments made, both in this proceeding and
12 also in these police reports, that Mr. Democker had no alibi,
13 in part because he didn't have anybody that he said he saw or
14 encountered on this evening ride on a weeknight; correct?

15 A. That's correct.

16 Q. Did anybody make any effort to investigate the use
17 of the trails in that area on a weeknight?

18 A. I talked to the neighbor -- the gentleman that
19 lives at that house with the dogs and the horse corrals.

20 Q. What did he say?

21 A. He said that on weeknights he actually goes out
22 there and rides his horses out there around that time period.

23 Q. Every night?

24 A. No. Just on occasion.

25 Q. How about other people?

1 A. I haven't spoken to any neighbors or anyone that
2 said they rode on weeknights.

3 Q. It is certainly possible, isn't it, Detective,
4 that Mr. Democker was telling the truth when he said he was
5 on that trail in the evening, particularly after the sun went
6 down, and didn't see another human being. That's entirely
7 possible, isn't it?

8 A. It's possible.

9 Q. You said you had been back since July 13; is that
10 right?

11 A. Been back to what?

12 Q. Been back to this trail area.

13 A. I have gone out there several times since then,
14 yes.

15 Q. To do what?

16 A. Just to look around.

17 Q. Did you find anything?

18 A. No.

19 Q. Yesterday, Detective McDormett testified that
20 there were a number of areas of this investigation that would
21 be better addressed to you, because he got involved in the
22 case pretty late in the game. Let me go over some of those
23 with you now, if you would.

24 I was asking Detective McDormett
25 questions about I.D. -- driver's license, passport, and then

1 things like credit cards that were seized from my client and
2 vehicles. And then specifically whether or not you had
3 information that Mr. Democker set about to replace the things
4 that were seized.

5 Do you have an understanding of what was
6 taken -- what personal items were taken from Mr. Democker and
7 kept in evidence in this case in that area?

8 A. I have a decent understanding, yeah.

9 Q. Okay. Ultimately, a couple of things were given
10 back to Mr. Democker -- his watch, his empty wallet, and his
11 eyeglasses; correct?

12 A. I don't know. I don't know that for sure.

13 Q. But Mr. Democker's driver's license, his credit
14 cards, his passport -- those items remain in evidence, don't
15 they?

16 A. I believe so, yes.

17 Q. There has been some indication -- I think you
18 would probably be aware that Mr. Democker, within a few weeks
19 after this happened, applied for another passport; is that
20 right?

21 A. I am aware of that, yes.

22 Q. Do you know if he applied for another driver's
23 license?

24 A. I am not aware if he has or has not.

25 Q. You didn't bother to investigate?

1 A. I didn't personally, no.

2 Q. Let me show you what has been marked as Exhibit 68
3 for identification.

4 Do you recognize this type of document?

5 A. It's similar. I have never seen this layout, I
6 guess.

7 Q. I wouldn't suspect you have.

8 If a person like Mr. Democker were to
9 apply for another driver's license, it would typically
10 produce an online record like the one you have in your hand;
11 is that right?

12 A. I don't know.

13 Q. You never looked at driver's license records as a
14 detective?

15 A. Yes, I have. You are saying if someone applies
16 for it, this is what they would get? I didn't understand the
17 question.

18 Q. Can you see what this appears to be, that it's a
19 query to the motor vehicle records done online?

20 A. Okay.

21 Q. And it's a request for information about a
22 person's five-year record as of 12/23, yesterday?

23 A. Okay.

24 Q. Do you have any reason to doubt that this is not
25 what it purports to be, it's not Mr. Democker's license

1 record for the last five years?

2 A. It's got all of his information, so --

3 Q. And among the items on 68 for identification, it
4 shows that --

5 MR. AINLEY: Objection. They are discussing a
6 document that is not in evidence at this point.

7 MR. SEARS: I move 68. I provided this
8 yesterday to Mr. Ainley.

9 THE COURT: I will sustain the previous
10 objection made, but the offer is now made.

11 Mr. Ainley, your response.

12 MR. AINLEY: No objection.

13 THE COURT: 68 is admitted.

14 BY MR. SEARS:

15 Q. This shows an issue date of 7/8/2008; is that
16 right?

17 A. That shows an issue date of 7/8/2008.

18 Q. For a new driver's license for Mr. Democker.

19 A. It just shows an issue date.

20 Again, that is not a record I have ever
21 seen before personally, so it's hard for me to testify.

22 Q. It wouldn't be unreasonable for Mr. Democker, who
23 is not under arrest, to go about replacing that which the
24 police took and kept -- his personal items; correct?

25 A. I wouldn't want to be without a driver's license,

1 that is correct.

2 Q. That would also apply to things like shoes and a
3 bicycle and a car and those kinds of things which the police
4 took?

5 MR. AINLEY: Objection. Calls for the officer
6 to speculate as to what the defendant would want to do.

7 THE COURT: Restate the question.

8 MR. SEARS: I will do a little better, your
9 Honor.

10 Q. Would you be surprised if Mr. Democker went about
11 trying to replace all of the different kinds of things that
12 he eventually determined the police were not going to
13 release; means of transportation, clothing, shoes,
14 identification, those kinds of things? That would not be out
15 of the ordinary, would it?

16 A. If you wanted it back, you could go get something
17 else.

18 Q. Now, Mr. Democker worked for a company called UBS
19 that is a multi-national company based outside the United
20 States; is that right?

21 A. I believe so, yes.

22 Q. And you are aware that he traveled for business
23 purposes outside the United States from time to time?

24 A. I don't know what his business -- if he traveled
25 for business purposes, I did not know that.

1 Q. You had his briefcase that had foreign currency in
2 it and documents indicating that he had been in Switzerland.
3 Do you have any reason to think that was other than a
4 business trip?

5 A. I don't know what it was for.

6 Q. Mr. Democker traveled outside the country for
7 business or for pleasure; correct?

8 A. Yes, he was outside the country for business or
9 pleasure; correct.

10 Q. And you need a passport for travel outside the
11 country?

12 A. That's correct.

13 Q. Let's talk about vehicles.

14 Mr. Democker, to your knowledge, never
15 purchased another vehicle to replace the one that was seized
16 on July 3rd. Is that your understanding?

17 A. No. That is not my understanding.

18 Q. What is your understanding?

19 A. He purchased a motorcycle.

20 Q. Let's talk about an automobile, not a motorcycle.

21 Did he buy another automobile?

22 A. Not that I'm aware of.

23 Q. What he did was rent, on a short-term basis,
24 vehicles including the Dodge Charger that he had on the day
25 he was arrested in Scottsdale; correct?

1 A. That's correct.

2 Q. Those were -- I may have said yesterday that they
3 were leased but, in fact, they were just rented on a
4 short-term basis.

5 He didn't have a long-term lease on a
6 vehicle, did he?

7 A. Not that I know of.

8 Q. And he bought the motorcycle when?

9 A. I don't know the exact date on that.

10 Q. Do you know if it was registered about on August
11 8, 2008? Does that sound right?

12 A. I don't recall exactly the date.

13 Q. Would you be surprised that Mr. Democker was
14 looking to have a means of transportation, knowing that you
15 were not intending any time soon to give him back his car?

16 A. Are we talking about renting a car or buying a
17 motorcycle?

18 Q. Either one. Just to have something to get around
19 in.

20 A. I would want a means of transportation.

21 Q. Sure. Do you know anything about the claim that
22 Mr. Democker somehow did something improper with regard to
23 his 2007 federal income tax return?

24 A. Do I know about it?

25 Q. Yeah. Do you know what the allegations are

1 regarding his 2007 federal income tax return?

2 A. That whatever was filed was incorrect.

3 Q. How?

4 A. I don't know the exact details of that. I don't
5 know what portion, I guess.

6 Q. You haven't been responsible for any of that
7 investigation?

8 A. I don't have a full understanding what that
9 details.

10 Q. Do you have any understanding?

11 A. I have some understanding.

12 Q. Tell me what you know.

13 A. That there was a filing, and that whatever
14 Mr. Democker filed, for whatever reason, was incorrect.

15 And if Miss Kennedy filed the same
16 numbers, then it would result in this part. But if she filed
17 the correct numbers, it would result in this part.

18 Q. We are talking about the fact that Mr. Democker
19 claimed, on his 2007 income tax return, the deduction for
20 alimony paid to Carol Kennedy in 2007. That is what we are
21 talking about, aren't we?

22 A. It has something to do with that, but my knowledge
23 of that -- I am not good with that stuff, so I don't have an
24 answer.

25 Q. So this is on my list of things Detective

1 McDormett said we better ask you. So now we're going with if
2 it's not you, it's somebody else?

3 A. I got the information from a person that
4 Miss Kennedy went to, as far as the taxes. I don't
5 understand it completely.

6 I can refer to my notes and explain what
7 I wrote down, but I don't have a full understanding of what
8 it all means.

9 Q. I can read what you said.

10 Who is the person you talked to?

11 A. Miss Cynthia Wallace.

12 Q. When did you do that?

13 A. I will look in my notes for that.

14 Q. Was it just early on in the investigation or last
15 week?

16 A. I will get you the exact date.

17 Q. Thank you.

18 A. I am going to refer to my report. I apologize.

19 THE COURT: I think you are clear on the
20 record about that.

21 MR. SEARS: Thank you.

22 THE WITNESS: That report is not even
23 finalized yet. So it's not included in here yet.

24 My information was of Miss Wallace, so I
25 don't have a date on that for you.

1 BY MR. SEARS:

2 Q. Can you relate it to the death of Miss Kennedy?

3 A. It is going to be sometime, I guess, late October,
4 early November.

5 Q. Just once? Just one meeting with her?

6 A. I met with her, referenced that I spoke with her
7 earlier in July, just got information that she had some data,
8 but there was no details to that.

9 Q. Now, jumping around a little bit.

10 Going back to what you told me here this
11 afternoon about going out on the early morning of July 3rd,
12 you told us that you didn't talk to anybody in the houses
13 because it was so early in the morning.

14 When did the police go back and start
15 talking to the people in the Love Lane/Boone Court area to
16 see if anybody had seen Mr. Democker that night?

17 A. I don't know the exact date on that.

18 Q. Did anybody do that?

19 A. Lieutenant Sergeant Huante did.

20 Q. But you don't know when?

21 A. I don't know when.

22 Q. Okay. Who did he talk to?

23 A. He talked to -- actually, I don't know who he
24 talked to. I wasn't there. He spoke to some of the
25 neighbors. I don't know which ones he spoke to. He left

1 cards for other people.

2 Q. Did he write a report?

3 A. I believe he has written a report, but I haven't
4 seen that portion.

5 Q. When was that done?

6 A. I don't know.

7 Q. Do you think it was a day or two after?

8 A. I think it was within that week.

9 Q. Now, Mr. Knapp told the first deputy that he
10 contacted that night, and then everybody else he talked to,
11 that he had an alibi for where he was at the time of Miss
12 Kennedy's death; right?

13 A. He spoke with a deputy, and I believe he said
14 that, yes.

15 Q. In subsequent interviews he has given more details
16 about where he says he was; correct?

17 A. Correct.

18 Q. In general, he says that at the time that we think
19 Ms. Kennedy was killed, he was at the home of his ex-wife in
20 Prescott, some distance away, with his youngest son; correct?

21 A. That's correct.

22 Q. While his ex-wife and his oldest son were at
23 roller hockey practice out at Pioneer Park; right?

24 A. That's correct.

25 Q. When was Miss Saxerud, who is his ex-wife,

1 contacted to corroborate his alibi?

2 A. I believe I spoke with her first on July 6th.

3 Q. So Mr. Knapp gives this alibi the evening of
4 July 2nd. And he is allowed in the house, and he is back in
5 the house on -- you said on the 4th and the 5th, after the
6 house is left the first time by the police, and no one has
7 yet corroborated his alibi at that point -- that period of
8 time goes by?

9 A. I did not speak with her until July 6; correct.

10 Q. My question is: Did anybody else do anything to
11 corroborate his alibi? You said you spoke with her on
12 July 6. Did anybody do any other investigation to
13 corroborate Mr. Knapp's explanation for where he was at the
14 time Miss Kennedy was killed?

15 A. Phone records and everything, yes.

16 Q. When did you have those? Before July 6?

17 A. No, sir.

18 Q. Mr. Knapp was let back on the property, allowed to
19 live in the property, and we know now, from what you said,
20 was in and out of the house before July 6; correct?

21 A. Correct.

22 Q. Detective Brown didn't -- I'm sorry -- Detective
23 McDormett didn't have a great deal of information and
24 deferred to you on the question of how it was that you all
25 were sure that the missing golf club was at the Bridle Path

1 location after June 21. Do you know about that?

2 A. Okay. One more time, please, on that.

3 Q. Okay. There was an allegation that was presented
4 to the Grand Jury -- and it is in this disclosure in this
5 case -- that my client gave a golf club -- in particular, the
6 golf club associated with the head cover -- to Carol Kennedy
7 sometime that would have allowed it to be at the house on
8 June 21, 2008. Are you familiar with that scenario?

9 A. I am familiar with it sometime after that point.
10 There was discussion about --

11 Q. Where did that information come from? This really
12 didn't come from Mr. Democker, because when you were
13 interviewing him, the police were not looking for a golf club
14 that early in the investigation; correct?

15 A. Correct.

16 Q. Who provided that information?

17 A. I think the first time I heard about it was when I
18 spoke with Miss Katie Democker.

19 Q. What did she tell you?

20 A. She thought her dad had given her mom a golf club
21 to sell in the upcoming garage sale.

22 Q. Did she say where she had that information? Was
23 she there?

24 A. No, she was not.

25 Q. Did somebody tell her?

1 A. I believe someone told her.

2 Q. Do you know who?

3 A. I can refer back to my notes on that, because I
4 don't recall.

5 Q. Please.

6 A. Okay. She didn't indicate -- or I didn't ask --
7 who she heard that from.

8 Q. Did she tell you what the golf club was? Describe
9 it in any way?

10 A. She didn't know what it was.

11 Q. Did you have the impression that she ever saw the
12 golf club?

13 A. I don't believe she's ever seen the golf club.

14 Q. Did anybody else talk to you or any other police
15 officers about this golf club being given by my client to his
16 ex-wife?

17 A. Yes.

18 Q. Who?

19 A. I am trying to recall. I can't recall right now.
20 The only two people I believe it could be would be either
21 Jacob Jenesak or Rene Gerard.

22 Q. If I said Rene Gerard, would that jog your memory,
23 perhaps?

24 A. Yeah, it's just not coming to me. It is possible.
25 I can't say for sure.

1 Q. Did either Jacob Jenesak or Rene Gerard make you
2 understand that they had seen this golf club out at the
3 Bridle Path location?

4 A. No.

5 Q. So essentially, we have some stories from a couple
6 of people that say they heard from Steve that he had given
7 Carol this golf club, but nobody seems to ever actually have
8 seen it out at Bridle Path; is that right?

9 A. Correct. When you say that someone --whoever told
10 me, I cannot recall who it was -- said that they heard from
11 Mr. Democker directly that he had given the golf club, but it
12 is correct that no one said they saw it there.

13 Q. And those people were a little unclear with you
14 about exactly when that may have happened?

15 A. Correct.

16 Q. There was some exchange -- there was more evidence
17 that there was some kind of exchange on June 21st that
18 involved artwork, and there was some talk about Mr. Democker
19 picking up a barbeque grill, through some e-mail and other
20 correspondence between Carol Kennedy and Mr. Democker about
21 that very point; right?

22 A. Correct.

23 Q. Then Mr. Knapp says there is an incident where
24 Mr. Democker calls on the phone, and it rings in the
25 guesthouse, and Mr. Knapp picks it up and he opens the garage

1 door for him, and Mr. Democker drops off some artwork?

2 A. That's correct.

3 Q. But he doesn't take the grill?

4 A. That's correct.

5 Q. And there is nothing in that story about a golf
6 club?

7 A. When you say "that story," that is when the golf
8 club, I believe, was taken over there from whoever told me.

9 Q. Not Mr. Knapp, because Mr. Knapp told you that he
10 didn't have any contact with Mr. Democker except by phone and
11 that he hit the garage door button. He didn't go out and --

12 A. Correct. That did not come from Mr. Knapp.

13 Q. Now, let's talk about this search of the
14 guesthouse that you said took place on July 3rd.

15 Did you write a departmental report about
16 that search -- talking about searching the guesthouse?

17 A. I believe it is in there that we went through that
18 house, yes -- the guesthouse.

19 Q. How long were you in the guesthouse conducting the
20 search?

21 A. A short time.

22 Q. What is a short time?

23 A. Just enough time to go through the living quarters
24 and go through the garage quickly. I would say probably
25 30 minutes.

1 Q. What time of the day or night was this?

2 A. This was in the afternoon.

3 Q. Afternoon of the 3rd?

4 A. Correct.

5 Q. Was Mr. Knapp with you when you were conducting
6 the search?

7 A. No, sir.

8 Q. What were you looking for?

9 A. Just looking to see if there was any evidence to
10 tie him to the office room or where the incident took place.

11 Q. At the time you conducted that search, were you
12 looking for a golf club?

13 A. No, sir.

14 Q. The golf club story really came later in the
15 afternoon during the autopsy; correct?

16 A. That's correct.

17 Q. And it resulted in a second search warrant being
18 executed out at Alpine Meadow; correct?

19 A. That's correct.

20 Q. With respect to the garage, where we see in the
21 pictures there, parts of that garage are pretty cluttered,
22 aren't they?

23 A. They are.

24 Q. Did you go through everything, take everything off
25 the shelves and look behind them, open up all the boxes and

1 containers looking for thing?

2 A. No, sir.

3 Q. How long do you think you were in the garage?

4 A. I would say half that time, so 15 minutes.

5 Q. Is there a loft area inside that garage that is
6 accessible?

7 A. Yes, sir.

8 Q. Did you search that?

9 A. No, sir.

10 Q. In the house, in the main house, there are
11 actually two loft areas. There is one we talked about before
12 that is in the room where Miss Kennedy was found; correct?

13 A. That's correct.

14 Q. Was that loft searched?

15 A. Yes.

16 Q. But in the hallway, the hallway that leads from
17 the kitchen area -- has the Saltillo tile down there -- that
18 actually has a loft area up there, doesn't it?

19 A. That's correct.

20 Q. Was that searched?

21 A. I did not search that.

22 Q. Did anybody search that?

23 A. I can't answer that question. I don't know. I
24 left, and I am not sure what was done afterwards.

25 Q. You were the case agent at that time and for many

1 weeks thereafter. Did you ever see a police report or a
2 search warrant return or anything that made you think that
3 police searched at any time that loft area down the hallway?

4 A. I have not seen anything written.

5 Q. What was in that? Could you see from the ground
6 what was up there?

7 A. I don't know what was up there.

8 Q. You say you were looking for evidence in the
9 guesthouse. What evidence?

10 A. Just if there was any indication of anything going
11 on in that room or that guesthouse area.

12 Q. Did you look through Mr. Knapp's laundry in the
13 way that police looked through and searched Mr. Democker's
14 laundry?

15 A. We went through, I opened up -- I went through the
16 kitchen, I went through the bathroom. There was just nothing
17 in there.

18 Q. Did you swab the drains?

19 A. No, sir.

20 Q. Did you take the hoses off the washer?

21 A. No, sir.

22 Q. Did you do any Bluestar testing in the guesthouse
23 on July 8?

24 A. No, sir.

25 Q. One last area, Detective.

1 Were you involved in any way of the
2 search on July 3rd of Mr. Democker's office in Prescott a few
3 blocks from the Alpine Meadows area?

4 A. On July 3rd, yes, sir.

5 Q. Were you there when his office was entered and his
6 computers were inspected and seized?

7 A. Yes, sir.

8 Q. What was the state of his computers? Were they on
9 or off?

10 A. The computer tower itself had power to it. The
11 monitors were not on.

12 Q. There is three monitors; right?

13 A. I am only recalling two right now.

14 Q. The picture here -- if I showed you the picture
15 with three, is it possible there were three?

16 A. Yes.

17 Q. They were all off?

18 A. Correct.

19 Q. Were they turned back on by the police?

20 A. We checked them to see once we turned them on,
21 yes.

22 Q. Let me show you a couple of photographs here.
23 These are Exhibit 61 and 62 in evidence.

24 61, does that look like the interior of
25 Mr. Democker's office in Prescott?

1 A. Yeah.

2 Q. Do you see three monitors there?

3 A. Correct. The tower is hooked up to these two.

4 When is this picture taken?

5 Q. Well, I have been given disclosure. I would have
6 assumed it was taken on July 3.

7 A. Okay.

8 Q. So, the way it looked on July 3?

9 A. I don't know.

10 Q. This is a closeup of one of the screens.

11 A. That is once it was turned on.

12 Q. I will tell you we didn't take it.

13 A. I just remember the one tower and the two screens.
14 That is all.

15 Q. All right. And the computers were seized shortly
16 after this picture was taken?

17 A. The computer tower itself.

18 Q. The monitors taken?

19 A. No, sir.

20 Q. Do you see the tower in this picture?

21 A. No, sir. It is underneath the desk, behind the
22 chair.

23 Q. And then 62, here, is a picture of a screen that
24 appears to be an IBM monitor. It's got a UBS logo and a
25 Windows dialogue box; correct?

1 A. That's correct.

2 Q. And that's the dialogue box that came up when you
3 powered the monitors on?

4 A. That's correct.

5 Q. Showing that the screen had been locked and could
6 only be opened by Mr. Democker with a password; correct?

7 A. That's correct.

8 Q. You understand that the protocol at UBS was to
9 leave the computers on, but to log out of the system so the
10 individual stockbrokers, like Mr. Democker, could receive
11 financial updates overnight; correct?

12 A. Two different stories on that, that I received.
13 Mr. Farmer said that the computers were turned off and
14 Miss Onnon said they were just logged off.

15 Q. Well, this computer was logged off; is that right?

16 A. That's correct.

17 Q. And the monitor was turned off; is that correct?

18 A. Correct. And the tower was still on.

19 MR. SEARS: I have no further questions.

20 THE COURT: Redirect?

21 MR. AINLEY: Yes.

22 REDIRECT EXAMINATION

23 BY MR. AINLEY:

24 Q. Let's kind of go in reverse order here.

25 Defense counsel just asked you about

1 Mr. Knapp and whether you corroborated his alibi immediately
2 and about the search of his residence.

3 Do you remember him asking you about
4 that?

5 A. Yes, sir.

6 Q. When Mr. Knapp showed up, did you talk to him?

7 A. Not right when he showed up. I talked to him
8 later that night.

9 Q. Did you talk to officers who had initial contact
10 with Mr. Knapp?

11 A. Yes.

12 Q. Did Mr. Knapp do or say anything to the officers
13 that put him under immediate suspicion?

14 A. No.

15 Q. Like, "I am a stockbroker. Can we make this
16 really brief?"

17 MR. SEARS: Objection. Assumes a fact not in
18 evidence from the testimony of evidence. Form of the
19 question.

20 THE COURT: It was posed as an example.

21 Overruled.

22 THE WITNESS: He did not say that.

23 BY MR. AINLEY:

24 Q. Do anything that immediately drew attention to him
25 as a suspect?

1 A. Nothing was brought to my attention.

2 Q. Okay. Defense counsel asked you about who else
3 had mentioned the golf club.

4 Would you turn to Supplement 61. Third
5 page, first full paragraph. Bates page is 632.

6 MR. SEARS: If I could have a moment to get
7 there, Judge.

8 THE COURT: You may.

9 While he is doing that, what was the
10 supplement number again?

11 MR. AINLEY: 61.

12 MR. SEARS: Thank you.

13 BY MR. AINLEY:

14 Q. Does that refresh your memory as to who else told
15 you about there being a golf club?

16 A. Yes, it does.

17 Q. Who was it who told you about that?

18 A. Miss Gerard.

19 Q. Defense counsel asked you about Miss Wallace, the
20 tax preparation person -- Wallace and Associates. And do you
21 remember him asking you about that?

22 A. Yes, sir.

23 Q. And he asked you about when you spoke to
24 Ms. Wallace?

25 A. Correct.

1 Q. Let me draw your attention to Exhibit 2, which has
2 previously been moved into evidence.

3 Your testimony during the Grand Jury, I
4 found part of it here at the end. If you would read through
5 there.

6 MR. SEARS: Page what?

7 THE COURT: Page citation?

8 THE WITNESS: 66.

9 BY MR. AINLEY:

10 Q. I had opened it to page 66, because it is towards
11 the end of the officer's testimony.

12 Officer, if you would read through there
13 briefly, because I believe you make a statement during that
14 testimony as to when you had received documentation from
15 Wallace and Associates and executed a search warrant or a
16 subpoena.

17 A. The question was asked me, "When did you receive
18 that binder, sir?"

19 And my answer was, "We seized that from
20 the house on July 3rd when we did the search warrant."

21 Q. And Officer, I just turned to the general area.
22 It may actually precede Page 66. There was a discussion of
23 when you talked to Wallace and Associates and when you
24 received documentation from Wallace and Associates. It may
25 be before Page 66.

1 A. I am not seeing anything that refers to that.

2 Q. Okay. Turn to Page 57. I am mistaken. It is
3 actually during the testimony of Detective McDormett.
4 Page 57, line 24. Read through that into Page 58.

5 Does that refresh your memory as to when
6 you received the communication from Wallace and Associates?

7 A. The question was asked, "When did Wallace and
8 Associates first contact law enforcement?"

9 And the answer was given, "I believe that
10 was about two days ago."

11 "When were those records subpoenaed?"

12 "It was that same day."

13 Q. Does that refresh your memory?

14 A. With the Grand Jury, it is just prior to -- this
15 is just prior to the Grand Jury time. The dates, I can't,
16 for some reason, hit it right now.

17 Q. What is the date of the Grand Jury presentation on
18 there?

19 A. It's October 31st.

20 Q. Were you the one who did the subpoena for the
21 Wallace and Associates information?

22 A. Yes. I hand-delivered the subpoena to
23 Miss Wallace.

24 Q. Do you have any disagreement that it occurred two
25 days prior to the Grand Jury presentation?

1 A. No. It could be shown on the subpoena, but I
2 would say that is probably correct.

3 Q. Defense counsel asked you about Mr. Democker's
4 identification being seized by law enforcement. Do you
5 remember him asking you about that?

6 A. Yes, sir.

7 Q. And specifically, he asked you about the driver's
8 license; right?

9 A. Correct.

10 Q. And you agreed with him that it is important to
11 have a driver's license to get to work.

12 A. Correct.

13 Q. Does Mr. Democker need to have a passport to get
14 to work?

15 A. No, sir.

16 Q. Did you or Detective McDermott talk to
17 Mr. Democker's employer and ascertain that there were no
18 plans to send Mr. Democker out of the country anytime soon?

19 A. I did not. I believe Detective McDormett did.

20 Q. Mr. Sears characterized it as a few weeks after
21 the passport was seized that Mr. Democker was applying for
22 it. It was actually nine days, wasn't it?

23 A. Correct. On the 11th.

24 Q. Okay. Who was it who seized Mr. Democker's
25 passport?

1 A. That was seized during the search of Alpine
2 Meadows. I was not present when that was collected.

3 Q. So Mr. Democker didn't have a need for a passport
4 for work because there was no plans to send him out of the
5 country. Didn't need it to drive a car, did he?

6 A. No, sir.

7 Q. Would need it, though, if he was planning on
8 leaving the country and not coming back.

9 MR. SEARS: Objection. Speculation.
10 Argumentative.

11 THE COURT: Sustained.

12 BY MR. AINLEY:

13 Q. Defense counsel asked you about fingerprints found
14 in the house. Do you remember him asking you about that?

15 A. Correct.

16 Q. What is the easiest way to not leave fingerprints?

17 A. Wear gloves.

18 Q. What is the -- oh, there was some question about
19 the blood that was found on the door knob leading out of the
20 house. Was that blood transfer or splatter?

21 A. That was transfer.

22 Q. So the killer had blood on his hand and touched
23 the door knob and transferred the blood to the door knob; is
24 that correct?

25 A. There would be blood transfer something. Hand,

1 clothing -- something, yes.

2 Q. Something that had blood on it touched the door
3 knob and transferred the blood.

4 A. I agree with that.

5 Q. Okay. If the blood was on a human hand and the
6 person touched the door knob and opened the door, you would
7 expect to find a mixture of the blood -- the DNA from the
8 blood and the DNA from the individual; correct?

9 A. It is possible, yes.

10 Q. If the blood was on a person's glove and they
11 opened the door knob and walked out, you would expect to find
12 the DNA from the blood; correct?

13 A. Correct.

14 Q. Would you find the DNA from the person?

15 A. Probably not.

16 Q. I think you clarified this issue, but in the
17 testing that was being done by D.P.S. and the testing that
18 was done by Sorenson, were they using the same testing
19 protocols?

20 A. It is named differently. I don't know what the
21 two labs do. It is hard for me to say that. I don't know if
22 they do the same thing, so I don't know how to answer that
23 question.

24 Q. If they do the same thing, then why send it to
25 Sorenson at all?

1 A. The reason it was sent to Sorenson lab was I was
2 not involved in the initial contacts with them. They advised
3 that whatever they do, they can -- more minute traces on
4 there to identify it. So how they do that, I don't know, but
5 that was the reason for it.

6 MR. AINLEY: All right. Thank you, sir. I
7 don't think I have any other questions for you at this time.

8 THE COURT: You may step down, Detective
9 Brown.

10 We will conclude today's portion of the
11 hearing. I spoke with counsel earlier about giving another
12 three hours, which is what I understood. At least that
13 amount of time may be necessary and we talked about the 13th
14 of January, 2009, at eleven o'clock, again going to about
15 three o'clock that day because of other cases and commitments
16 that I have.

17 Is that still acceptable to you,
18 Mr. Sears?

19 MR. SEARS: Yes, sir.

20 THE COURT: Mr. Ainley?

21 MR. AINLEY: Yes, sir.

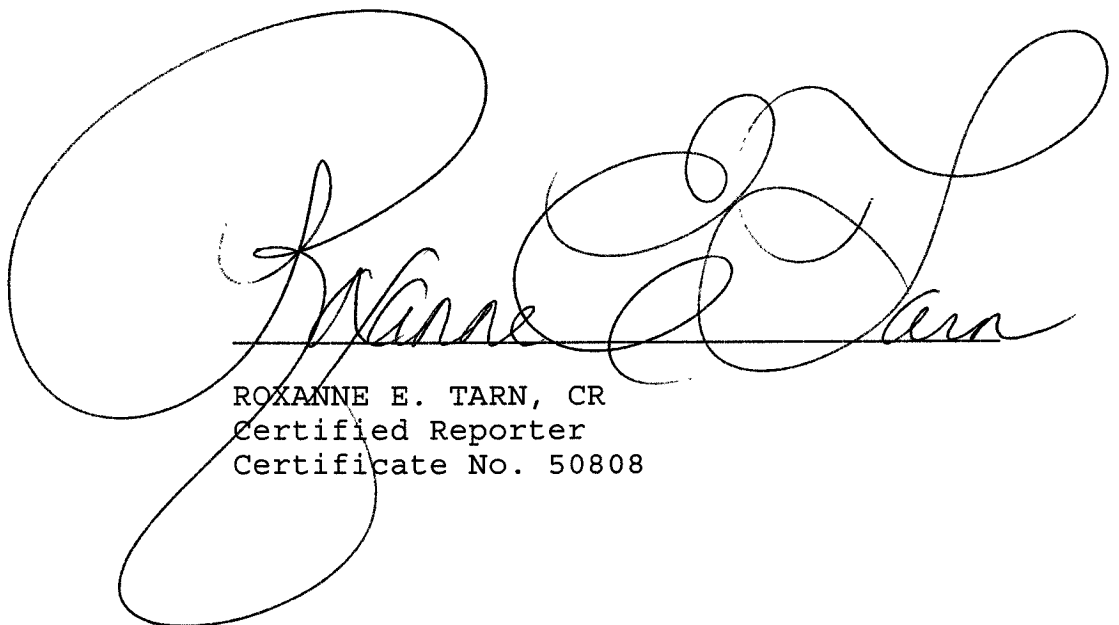
22 THE COURT: We will recess and confirm the
23 current release conditions. We'll recess until January 13.
24 Tuesday, January 13, 2009, eleven o'clock in the morning.

25 (Whereupon, these proceedings were concluded.)

C E R T I F I C A T E

I, ROXANNE E. TARN, CR, a Certified Reporter
in the State of Arizona, do hereby certify that the foregoing
pages 1 - 127 constitute a full, true, and accurate
transcript of the proceedings had in the foregoing matter,
all done to the best of my skill and ability.

SIGNED and dated this 20th day of August,
2009.



ROXANNE E. TARN, CR
Certified Reporter
Certificate No. 50808